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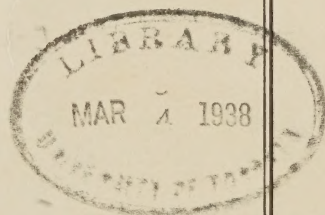
**CORRESPONDENCE AND
DOCUMENTS**

relating to


**ST. LAWRENCE DEEP WATERWAY TREATY 1932,
NIAGARA CONVENTION 1929, AND OGOKI
RIVER AND KENOGAMI RIVER
(LONG LAKE) PROJECTS**

and

**EXPORT OF ELECTRICAL
POWER**



OTTAWA
J. O. PATENAUDE, I.S.O.
PRINTER TO THE KING'S MOST EXCELLENT MAJESTY
1938



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CORRESPONDENCE AND DOCUMENTS RELATING TO ST. LAWRENCE DEEP WATERWAY TREATY 1932, NIAGARA CONVENTION 1929, AND OGOKI RIVER AND KENOGAMI RIVER (LONG LAKE) PROJECTS, AND THE EXPORT OF ELECTRICAL POWER.

PART I: Correspondence between the Governments of Canada and the United States, 1930-1938, concerning the St. Lawrence Deep Waterway Treaty 1932, and the Niagara Convention and Protocol 1929.

PART II: Correspondence between the Government of Canada and the Government and the Hydro Electric Power Commission of Ontario relating to the St. Lawrence Deep Waterway, Niagara River, Ogoki River and Kenogami River (Long Lake) Projects and related matters.

PART III: Correspondence and Documents relating to the Export of Electrical Power.

APPENDIX: Report of the Canadian National Advisory Committee, 1928; Niagara Convention and Protocol, 1929, and St. Lawrence Deep Waterway Treaty, 1932, between Canada and the United States (signed but not ratified).

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PART I

CORRESPONDENCE BETWEEN THE GOVERNMENTS OF CANADA AND THE UNITED STATES, 1930-1938, CON- CERNING THE ST. LAWRENCE DEEP WATERWAY TREATY 1932, AND THE NIAGARA CONVENTION AND PROTOCOL 1929.

No. 1.

*From the United States Minister to Canada, Ottawa,
To the Secretary of State for External Affairs, Ottawa.*

OTTAWA, September 2, 1930.

SIR:

I have the honor to refer to previous correspondence exchanged between the Government of Canada and the Government of the United States on the subject of the proposed St. Lawrence seaway.

In pursuance of instructions from the President, I desire to reiterate that the Government of the United States stands ready to proceed with this proposed development at the earliest possible date. I have been directed to inquire whether the Canadian Government now finds itself in a position to appoint commissioners to discuss jointly with commissioners of the United States the details of the seaway, and to formulate a treaty appropriate to the purpose.

I avail myself of the occasion to renew to you, Sir, the assurances of my highest consideration.

HANFORD MACNIDER

The Honorable R. B. BENNETT,
Secretary of State for External Affairs,
Ottawa.

No. 2.

*From the Secretary of State for External Affairs, Ottawa,
To the United States Minister to Canada, Ottawa.*

OTTAWA, September 10, 1930.

SIR,

I have the honour to acknowledge your note of September 2nd indicating the readiness of the Government of the United States to proceed with the development of the proposed St. Lawrence Waterway at an early date.

The Canadian Government has given consideration to some phases of the St. Lawrence Waterway question, but in view of the fact that the Parliament of Canada is now in session, and that the opening of the Imperial Conference has been set for September 30th, it will not be possible to deal with the question in a comprehensive manner at the present moment. I purpose, however, to go into the matter immediately upon my return from the Conference in November, and following this examination I shall communicate with you further.

Accept, Sir, the renewed assurances of my highest consideration.

R. B. BENNETT
*Secretary of State for
 External Affairs.*

The Honourable HANFORD MACNIDER,
 Minister of the United States of America,
 Ottawa.

No. 3.

*From the Secretary of State for External Affairs, Ottawa,
 To the United States Minister to Canada, Ottawa.*

OTTAWA, September 12, 1931.

Confidential.

SIR,

I have the honour to refer to your letter of September 2nd, 1930, and my reply thereto, dated September 10th, 1930, in the matter of the proposed St. Lawrence Waterway development.

This whole question in its broader aspects has for many months engaged the attention of the Government, and careful consideration has been given the various bases on which negotiations might be continued.

During the month of March, I was privileged to discuss in an informal way, with your President, certain points involved in the general proposal. Since then a detailed study of the project has been undertaken with a view to reaching a formula which would be acceptable to the two Governments.

I have been of the opinion that at least in the initial stages of the negotiations, progress could more definitely be assured by direct and verbal exchange of views between the two Governments than by any other medium, and I am gratified to learn that my opinion, as presented by the Canadian Minister, has received the concurrence of your Government.

The foregoing summarizes, in a general way, the situation of which I have endeavoured, in our many interviews, to keep you informed.

It is my belief that in the near future the Government will be in a position to discuss concrete proposals with your Government for the completion of the St. Lawrence Waterways project. Steps have already been taken to reconstitute the Canadian section of the Joint Board of Engineers.

Accept, Sir, the renewed assurances of my highest consideration.

R. B. BENNETT

*Secretary of State for
External Affairs.*

The Honourable HANFORD MACNIDER,
United States Minister to Canada,
Ottawa,
Canada.

No. 4.

*From the Secretary of State of the United States, Washington,
To the Canadian Minister to the United States, Washington.*

WASHINGTON, January 13, 1933.

The Honourable

WILLIAM DUNCAN HERRIDGE, K.C., D.S.O.,
Minister of the Dominion of Canada.

SIR,—

I have the honour to inform you that during the senatorial inquiry into the Great Lakes-St. Lawrence Deep Waterway Treaty, signed July 18, 1932,* a suggestion has been made that an indirect effect of the terms of the treaty might be to commit this Government or the State of New York or other authorities concerned, if any, to the continuance of the diversion for the private power installation now using the Massena Canal and the Grass River. The suggestion is based on the circumstance that the reports of the Joint Board of Engineers in outlining the general engineering project which is adopted as a basis for the treaty include an estimate for the continuance of diversion facilities at the present location of the Massena Canal intake.

I do not agree that any such consequence arises from the terms of the treaty, and I am confident that the Canadian Government, like our

* The text of this Treaty is set forth in the Appendix hereto.

own, has no desire or intention that the treaty should even remotely produce such consequences. This Government believes that the treaty does not, and desires that it should not in any respect, fix the policy to be pursued within the United States in regard to the recognition of or maintenance of the diversion referred to above, and is confident that the Treaty does not operate to limit the freedom of the United States to deal with this diversion as a domestic question involving only the use of this Government's share of the flow of the river.

In order, however, to remove all doubt as to the purpose and effect of the treaty, I request the Government of Canada to state whether it will join this Government in a statement of the following principles:—

1. The effect of the Great Lakes-St. Lawrence Deep Waterway Treaty, signed at Washington, July 18, 1932, is not in any respect to recognize, confirm, or establish any rights or claims of any person or corporation in respect to the diversion of water for power purposes through the Massena Canal and Grass River, or to limit the freedom of the United States or the State of New York, or other competent authority to treat the question of the continuance, control, or elimination of such diversion as a domestic question.
2. The Canadian Government does hereby, and will, upon request, formally consent to the modification or elimination of the works provided for in the Report of the Joint Board of Engineers in connection with the said diversion through the Massena Canal.
3. The Canadian Government recognizes that the competent authorities in the United States are free to eliminate the diversion of water for power purposes through the Massena Canal and Grass River, and to use the water so released through the main river works in conformity with the provisions of Article IV of the said Treaty.

Accept, Sir, the renewed assurances of my highest consideration.

HENRY L. STIMSON

No. 5.

*From the Canadian Minister to the United States, Washington,
To the Secretary of State of the United States, Washington.*

WASHINGTON, January 13, 1933.

The Hon. HENRY L. STIMSON,
Secretary of State of the United States,
Washington, D.C.

SIR,—

I have the honour to acknowledge the receipt of your note of January 13, 1933, relating to the effect of the Great Lakes-St. Lawrence Deep Waterway Treaty upon the diversion of the waters of the St. Lawrence River at Massena.

My Government shares the views of the United States Government that it was not the purpose of the Treaty to fix, in any respect, the policy to be pursued in regard to the maintenance of such diversion. It is the view of the Canadian Government that the continuance or discontinuance of that diversion is a purely domestic matter for determination by competent authorities in the United States.

The Canadian Government, therefore, joins with the United States Government in a declaration of the following principles:—

1. The effect of the Great Lakes-St. Lawrence Deep Waterway Treaty, signed at Washington, July 18, 1932, is not, in any respect, to recognize, confirm, or establish any rights or claims of any person or corporation, in respect to the diversion of water for power purposes through the Massena Canal and Grass River, or to limit the freedom of the United States or the State of New York, or other competent authority, to treat the question of the continuance, control or elimination of such diversion as a domestic question.
2. The Canadian Government does hereby and will, upon request, formally consent to the modification or elimination of the works provided for in the report of the Joint Board of Engineers, in connection with the said diversion through the Massena Canal.
3. The Canadian Government recognizes that the competent authorities in the United States are free to eliminate the diversion of water for power purposes through the Massena Canal and Grass River, and to use the water so released through the main river works in conformity with the provisions of Article IV of the said Treaty.

I have the honour to be, with the highest consideration, Sir,

Your most obedient, humble servant,

W. D. HERRIDGE

No. 6.

*From the United States Minister to Canada, Ottawa,
To the Secretary of State for External Affairs, Ottawa.*

OTTAWA, March 4, 1935.

SIR,—Under instructions from my Government I have the honor to refer to the convention and protocol for the preservation and improvement of Niagara Falls, which was signed at Ottawa on January 2, 1929,* and which received the approval of both Houses of Parliament in that year.

As you are no doubt aware, the Foreign Relations Committee of the United States Senate held hearings in February, 1931, and voted against reporting the Treaty favorably to the Senate which, consequently, has not acted on the Treaty. During the Senate hearings it was manifest that the members of the Foreign Relations Committee were in hearty accord with the proposal to construct compensating works to preserve the beauty of the Falls, but that in their estimation the Treaty conferred unusual and unwarranted advantages upon a private hydro-electric company in the United States, whereby this company would receive the benefit of the additional diversion on the American side in return for defraying the American share of the costs of the proposed compensating works.

The Treaty mentioned above was based upon a report dated May 3, 1928, drawn up by the Special International Niagara Board, established in 1926 by Canada and the United States. The Board submitted its final report under a letter dated December 11, 1929. On January 17, 1931, there occurred a fall of rock in the American Fall, regarding which the Board submitted a Supplementary Report dated November 10, 1931. On August 13, 1934, a rock slide took place on the American side of Horseshoe Fall, followed by a further slide on December 5, 1934, from the Canadian side of the Horseshoe Fall.

My Government considers that the remedial works proposed by the Special International Niagara Board are urgently needed for the restoration and enhancement of the beauty of Niagara Falls, and believes that a material improvement of the present scenic conditions would follow their construction. The impairment by erosion has been forcibly brought to the attention of my Government by the recent falls of rock, and the bared flanks of the Horseshoe Fall and the thin flow over the American Fall are striking witnesses to the need for prompt improvement in existing conditions. The Board has stated that the purposes sought to be accomplished by the proposed works are as follows:

* The text of the Convention and Protocol is set forth in the Appendix hereto.

"The results to be anticipated from the construction of the works on the two flanks of the Horseshoe Falls will be the insurance at all seasons of an unbroken crest line from shore to shore, the maintenance of the present blended green and white colour effects of the Horseshoe Falls and in some proportionate measure, a modification of the rate of erosion in the bend. The works in Grass Island pool will ensure an adequate flow in the American rapids and falls and between the Three Sister Islands."

There appears to be no likelihood whatever that the Convention of January 2, 1929, will be approved by the United States Senate and, moreover, the power aspects of the Convention are unsatisfactory to the President. In these circumstances, my Government feels that a different approach to the problem of the beautification works will have to be made if their construction is to be undertaken at an early date.

I am therefore directed to request that the consideration of the Canadian Government be given to an arrangement for the joint construction of the planned remedial works to preserve the beauty of Niagara Falls independently of additional diversion of water for power purposes. My Government hopes that this can be done by means of an exchange of notes in which it will be clearly set forth by both parties that no permanent allocation of water rights is effected thereby, and that no additional use of water by power companies, public or private, on either side of the Falls is authorized. My Government believes that the works could be proceeded with under the supervision of the existing Special International Niagara Board and subject to such modifications or changes from its original recommendations as may be acceptable to the two Governments. It may, of course, be desirable at this time to give to the Board instructions for further consideration of the matter. If so, my Government will be glad to exchange views with the Canadian Government on the matter.

I avail myself of the occasion to renew to you, Sir, the assurances of my highest consideration.

WARREN D. ROBBINS

The Right Honourable
The Secretary of State for External Affairs,
Ottawa.

No. 7.

*From the United States Legation, Ottawa,
To the Secretary of State for External Affairs, Ottawa.*

MEMORANDUM

The President has given a great deal of thought to the St. Lawrence Waterway project and the most practicable means of bringing about the ratification of the Treaty between the United States and Canada looking to the inauguration of actual construction on this development. He sent a strong message to the Senate at the first regular session after he assumed office urging immediate approval of the Treaty and made a personal appeal to a number of the Senators in an effort to bring about approval of the Treaty by the Senate.

Notwithstanding these efforts, the Treaty did not obtain the necessary two-thirds majority of the Senate, and thus failed of approval. The present concern of the American Government is to endeavor to devise a means whereby a treaty looking to this development can be brought into effect.

During the Senate Hearings of 1931, dealing with the Convention and Protocol for the preservation and improvement of Niagara Falls, which was signed at Ottawa on January 2, 1929, and which has been approved by both Houses of the Canadian Parliament, it became manifest that the members of the Foreign Relations Committee were in hearty accord with the proposal for the construction of the compensating works to preserve the beauty of the falls. The Committee apparently felt, however, that the Convention conferred unusual and unwarranted advantages upon a private American power company which under the Convention would receive the benefits of the additional diversion of the American side in return for defraying the American share of the cost of the proposed compensating works. On that account it was felt that there appeared to be no likelihood that the Convention of January 2, 1929, would be approved by the Senate.

The President feels that there would be obvious advantages to both the United States and the Canadian Government in negotiating a new treaty to deal with the Great Lakes-St. Lawrence basin as a whole and the beauty problems at Niagara Falls, and would appreciate having, at the earliest possible moment, the views of the Prime Minister on this whole question.

If the Prime Minister is agreeable to the suggested procedure it is the President's intention to withdraw at once from the Senate the St. Lawrence Waterway Treaty of 1932 and the Niagara Falls Convention of 1929. The American Government would be prepared to institute negotiations looking to a new treaty at once.

OTTAWA, February 26, 1936.

No. 8.

From the Canadian Minister to the United States, Washington,
To the Secretary of State of the United States, Washington.*

WASHINGTON, January 27, 1938.

SIR,—I have the honour to state that I have been instructed by the Canadian Government to bring to your attention that they have under consideration and are prepared to approve an application pursuant to the Navigable Waters Protection Act from the Hydro Electric Power Commission of Ontario, for which the Government of the Province of Ontario ask favourable consideration, and which seeks the approval of certain works designed to provide for the diversion of water from the Kenogami River, a tributary of the Albany River, via Long Lake, all in the Province of Ontario, into Lake Superior.

The proposed diversion, it will be seen, would be one into the Great Lakes-St. Lawrence water system from another watershed lying wholly within the borders of Canada. It is calculated that the average diversion would amount to 1,200 c.f.s. of water.

The project if carried out would entail certain material advantages. It would in practical effect improve the conditions affecting the navigation throughout the Great Lakes-St. Lawrence system and reduce to some extent the expenditures on the compensating works which for various reasons have to be carried out and maintained at certain points in the system—an advantage that would be shared by the United States in common with Canada. It would also make available more water along that system for the production of electrical power. As regards this aspect the Canadian Government would expect that the proposed diversion, if carried out, would be subject to the principle that the waters diverted from a national watershed into the international waterways should be regarded for power uses as national waters exclusively. This is a principle which, it will be recalled, was recognized in the negotiation of the St. Lawrence Deep Waterway Treaty in 1932.

The Canadian Government, therefore, wish to enquire whether the United States Government would be disposed to enter into an agreement to the effect that, notwithstanding the provisions of Articles 5 and 8 of the Boundary Waters Treaty of 1909 regarding the division of the uses of boundary waters, in the event of the proposed diversion being made into Lake Superior from the Kenogami River via Long Lake, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall be vested in Canada and the quantity

* This note had been acknowledged but no definitive reply had been received at the time of completion of the present print.

of water so diverted shall be at all times available to Canada for use for power below the point of diversion so long as it constitutes a part of boundary waters.

It is hoped that the Government of the United States will be disposed to give to this proposal their favourable and early consideration.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

W. A. RIDDELL
for the Minister

PART II

CORRESPONDENCE BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT AND THE HYDRO ELECTRIC POWER COMMISSION OF ONTARIO RELATING TO THE ST. LAWRENCE DEEP WATERWAY, NIAGARA, OGOKI AND KENOGLAMI RIVER (LONG LAKE) PROJECTS AND RELATED MATTERS.

No. 9.

*From the Premier of Ontario,
To the Minister of the Interior.*

TORONTO, February 9, 1925.

DEAR MR. STEWART,

This Government has now before it, and is considering a water diversion from the Albany River that will add something to the flow of the Great Lakes, and to a degree will improve the water levels all along the International waters.

It is suggested that we can by the erection of certain dams divert waters that now go to Hudson's Bay down through Lake Nipigon into Lake Superior. Of course, the primary purpose is to improve our power development there, but if this is done it will certainly contribute 3000 second feet to the flow of the international waters.

My object in writing you is to point out that as this is unquestionably Ontario water which is being added to the international flow, Ontario should have ample compensation for it in the consideration of any international question that might affect our rights in the division of the waters. In other words, as this is water added by this Province, it certainly should be looked upon as our water all down the boundary, and we should be given the exclusive right to use this contribution without interfering in our rights in the international waters proper.

I have no doubt that this will appeal to you as an eminently proper position for the Province to take. Outside of the question of power altogether, the Dominion Government, from the standpoint of navigation, will benefit to that extent whether it be great or small. I should be glad if you would give me some assurance that in any question that may arise for consideration at the hands of your Government, this water will not be considered the subject of question or division, but will be treated as being exclusively the property of the Province aside from any claim we may have for division of other waters.

I shall be obliged if you will let me hear from you.

Yours very truly,

Hon. CHAS. STEWART,
Minister of the Interior,
Ottawa, Ont.

G. H. FERGUSON

No. 10.

*From the Acting Deputy Minister of the Interior,
To the Premier of Ontario.*

OTTAWA, 14th February, 1925.

DEAR MR. FERGUSON,

In the absence of the Minister of the Interior, I beg to acknowledge the receipt of your letter of the 9th instant, relative to a possible diversion of water from the Albany River watershed into the Great Lakes System.

Upon the Minister's return, in the course of the next two weeks, your communication will immediately be brought to his attention.

Yours very truly,

R. A. GIBSON
Acting Deputy Minister.

The Honourable HOWARD FERGUSON,
Prime Minister,
Toronto, Ont.

No. 11.

*From the Minister of the Interior,
To the Premier of Ontario.*

OTTAWA, 4th May, 1925.

DEAR MR. FERGUSON,

In collaboration with my colleagues in Cabinet Council, I have given careful consideration to your letter of February 9th, in respect to the diversion of water from the Albany River system to the Great Lakes system, and to your claim that as this is unquestionably Ontario water which is being added to the international flow, the water should be looked upon as Ontario water all down the boundary, and requesting my assurance that in any question that may arise for consideration at the hands of this Government in respect to the Great Lakes and St. Lawrence waterway, this water will not be considered the subject of question or division, but will be treated as being exclusively the property of the Province, aside from any claim you may have for the division of other waters.

A review of your proposal discloses the following salient features:—

1. The diversion of the water from the Albany system can only be made at the expense of the navigation and power possibilities of the Albany system, both of which are matters of purely Canadian import.

2. As the navigability of the Albany River is concerned, the approval of the project by the Federal Department of Public Works under the Navigable Waters Protection Act would appear to be essential.
3. So far as navigation on the Great Lakes system is concerned, the water added to the Great Lakes system will be equally available and advantageous to both the United States and Canada.
4. It would be physically practicable to retain to the Dominion the power potentialities which have been abstracted from the Albany system by taking the added inflow into consideration in any apportionment as between Canada and the United States, of the waters of the St. Mary River, the Niagara River, and the international reach of the St. Lawrence River.

On the general principle involved, my colleagues and myself are of the opinion that, if we in Canada are prepared to authorize the abstraction of this water from the Albany system and to forego the navigation and power advantages which are inherent in its flow through the Albany system, we would undoubtedly be justified in claiming that this water, when added to the Great Lakes system, should still be considered insofar as practicable, as Canadian water. I am furthermore prepared to assure you that this Government will maintain this viewpoint in any questions which may come before it having to do with the consideration of the Great Lakes and St. Lawrence waterway system, and particularly with respect to questions of apportionment of water as between Canada and the United States.

You will understand that this assurance has to do with the general principle involved, and must not be considered as an approval of the detailed project. The project itself will necessarily have to be submitted to this Government for consideration under the Navigable Waters Protection Act before any official approval can be given.

Another point which should not be lost sight of is the question of the effect of the proposal on international waters under the Boundary Waters Treaty. This is a matter which can receive subsequent consideration.

Yours faithfully,

C. STEWART

The Honourable G. HOWARD FERGUSON,
Premier of Ontario,
Toronto, Ontario.

No. 12.

*From the Premier of Ontario,
To the Minister of the Interior.*

TORONTO, May 14, 1925.

DEAR MR. STEWART,

I am in receipt of yours of the 4th instant with regard to the diversion of the water from the Albany River. I am having some further inquiry made with respect to this, and shall likely communicate with you at a later date.

Yours faithfully,

G. H. FERGUSON

Hon. CHARLES STEWART,
Minister of the Interior,
Ottawa, Ont.

No. 13.

*From the Minister of the Interior,
To the Premier of Ontario.*

OTTAWA, 3rd January, 1929.

DEAR MR. FERGUSON,—

Re: Convention and Protocol re Niagara

I take pleasure in transmitting to you herewith a copy of the Convention and Protocol signed at Ottawa yesterday between His Majesty on behalf of the Dominion of Canada, and the United States, providing for the preservation of the scenic beauty of Niagara Falls and Rapids by the construction of remedial works, and providing further for the withdrawal of an additional 10,000 c.f.s. of water on each side of the river during the winter or non-tourist season, extending from the 1st of October to the 31st of March in each year.

In reporting the successful outcome of the negotiations, I wish to express appreciation of the assistance of the Ontario Authorities, and particularly of the Hydro-Electric Power Commission of Ontario, from the date of your first communication to me *re* this matter on November 30th, 1925.

The provisions of this Convention, in conjunction with the proposals of the Special International Niagara Board, which I believe are being embodied in the Board's final report, provide for a clear-cut program of development at Niagara, designed to ensure complete preservation of the scenic beauties and at the same time provide for very substantial power additions to meet Ontario's growing needs. The present Con-

vention is of cardinal importance in the successful development of this program.

Yours faithfully,
CHAS. STEWART

The Hon. G. H. FERGUSON, K.C., B.A., LL.B.,
Premier of Ontario,
Toronto, Ontario.

No. 14.

*From the Minister of the Interior,
To the Chairman of the Hydro-Electric Power Commission of Ontario.*

DEAR MR. MAGRATH,— OTTAWA, 3rd January, 1929.

Re: Convention and Protocol re Niagara

In further reference to my letter of April 18th, in which I advised you that the Special International Niagara Board was giving consideration to the joint proposals of the Hydro-Electric Power Commission and the Niagara Falls Power Company, and that as soon as the Board's report was submitted further consideration of this matter would be pressed, and in reference also to the further developments with respect to this matter as to which you have been kept continually advised, I now take pleasure in transmitting to you herewith a copy of the Convention and Protocol signed at Ottawa yesterday between His Majesty on behalf of the Dominion of Canada, and the United States, providing for the preservation of the scenic beauty of Niagara Falls and Rapids by the construction of remedial works, and providing further for the withdrawal of an additional 10,000 c.f.s. of water on each side of the river during the winter or non-tourist season, extending from the 1st of October to the 31st of March in each year.

In reporting the successful outcome of the negotiations, I wish to express appreciation of the assistance of the Ontario Authorities, and particularly of the Hydro-Electric Power Commission of Ontario.

The provisions of this Convention, in conjunction with the proposals of the Special International Niagara Board, which I believe are being embodied in the Board's final report, provide for a clear-cut program of development at Niagara designed to ensure complete preservation of the scenic beauties and at the same time provide for very substantial power additions to meet Ontario's growing needs. The present Convention is of cardinal importance in the successful development of this program.

Yours faithfully,
CHAS. STEWART

C. A. MAGRATH, Esq.,
Chairman, Ontario Hydro-Electric Power Commission,
190 University Avenue,
Toronto 2, Ontario.

No. 15.

*From the Premier of Ontario,
To the Minister of the Interior.*

TORONTO, January 9, 1929.

DEAR MR. STEWART,—

I have for acknowledgment yours of the 3rd instant forwarding me a copy of the Convention and Protocol recently signed at Ottawa by the Governments of Canada and the United States providing for the preservation of the scenic beauty of Niagara Falls, and for the withdrawal of 10,000 second feet more water for power purposes.

It is a matter of great satisfaction to me, and advantage to Ontario, that these negotiations have been brought to a successful conclusion, and I am glad indeed to know that the authorities of this Province, and particularly the Hydro-Electric Power Commission, were able to lend valuable assistance in the matter.

Yours very truly,

G. H. FERGUSON

HON. CHAS. STEWART,
Minister of the Interior,
Ottawa, Ontario.

No. 16.

*From the Chairman of the Hydro-Electric Power Commission of Ontario,
To the Minister of the Interior.*

TORONTO 2, January 10th, 1929.

THE HON. CHARLES STEWART,
Minister of the Interior,
Ottawa, Ontario.

DEAR MR. STEWART,—

Re: Niagara Convention and Protocol of 2 January 1929

I beg to acknowledge the receipt of your letter of the 3rd January transmitting a copy of the Convention and Protocol concluded the day before between Canada and the United States to provide for the preservation of the scenic beauty of Niagara Falls and Rapids by the construction of remedial works and for the withdrawal of an additional 10,000 c.f.s. of water on each side of the River during the winter or non-tourist season.

The Commission appreciates the action of your Government, toward which the efforts of yourself and your Water Power Service officials have contributed so much, thus bringing the negotiations upon this stage of

the Niagara problems to a successful conclusion. Your reference to the part taken by the Commission in the matter is also much appreciated.

I also note with gratification that this Convention and the forthcoming final report of the Special International Niagara Board are regarded as providing a clear-cut program of development at Niagara designed to ensure complete preservation of the scenic beauties and at the same time provide for very substantial power additions to meet Ontario's growing needs.

Yours faithfully,

C. A. MAGRATH

Chairman.

No. 17.

*From the Premier of Ontario,
To the Prime Minister of Canada.*

TORONTO, August 13th, 1934.

DEAR MR. BENNETT:

This is to advise you that the Hydro-Electric Power Commission of Ontario, consisting of the Honourable the Attorney General, Arthur W. Roebuck, the Honourable Thomas B. McQuesten, Minister of Public Works and Highways, and T. Stewart Lyon (Chairman), has been constituted by Order-in-Council to direct, on behalf of the Province, the generation, transmission and sale to local municipalities for distribution of electrical power and energy generated at many points within the Province, but more particularly at Niagara Falls.

The Commission, at a meeting on July 18th, 1934, adopted the following resolution:

Resolved: That the waters of the Niagara River are the most convenient and most economical source from which power can be obtained for the industrial and domestic needs of the people of the Niagara System, which includes that part of the Province extending from the east of the suburbs of Toronto to Windsor and Sarnia on the West, and embraces such important power using centres as—Brantford, Chatham, East York Township, Etobicoke Township, Galt, Guelph, Hamilton, Kitchener, London, New Toronto, Niagara Falls, St. Catharines, St. Thomas, Sarnia, Stratford, Toronto, Walkerville, Welland, Windsor and Woodstock.

Resolved: That T. H. Hogg, B.A.Sc., C.E., D.Eng., be directed to proceed, in addition to his other regular duties with the development of a plan for the fullest possible utilization of the water powers on the Canadian side of the Niagara River, subject to

the proviso that no injury shall be done to the scenic beauty of the falls and rapids in the carrying out of any such plan.

Resolved: That the Hydro-Electric Power Commission of Ontario initiate, through the proper diplomatic channels negotiations with the Government of the United States and the State of New York for such an extension of the use of the flow of the Niagara for the generation of electrical energy as shall enable the consumers on both sides of the boundary to draw a greatly increased part of their required supplies from the waters of that river so soon as the necessity for the further supply of power is apparent.

The Commission has directed my attention to the appointment, by the President of the United States, of the National Power Policy Commission, which Commission will have, among its duties, the study of the cost of electricity in various parts of the United States, together with a study of the availability of water power in comparison with steam power. The Hydro-Electric Power Commission of Ontario feels that it is of importance that consultation be had between the National Power Policy Commission and the officers of the Hydro-Electric Power Commission of Ontario, especially Dr. T. H. Hogg, Chief Hydraulic Engineer, before a report is issued, in order that the people of each nation may secure, at as early a date as possible, a larger use of the flow of the Niagara River for the purpose of power generation.

The Hydro-Electric Power Commission, I am assured, is prepared to co-operate most cordially with the National Power Policy Commission of the United States, or such other bodies as may be authorized, in preparing scientific data upon which the Governments of the two countries may base an International Agreement for such increased use of the waters of the Niagara River as may seem to them in the best interests of both countries, having due regard to the prevention of injury to the scenic beauty of the great cataract and its preservation for the benefit of future generations.

Much material exists in the files of the Hydro-Electric Power Commission of Ontario, which it is believed would prove of use to the experts representing the United States. This material will be in the custody of Dr. Hogg, the Chief Hydraulic Engineer of the Commission, who will gladly make it available so that it shall be accessible at all times to the representatives of the United States.

The Province of Ontario is vitally interested in securing as speedily as possible some agreement between the interested Governments, including that of the State of New York, which would permit plans being prepared for an early additional development of power on the Niagara River.

I would respectfully request, therefore, that you bring to the attention of the Government of the United States, through the proper diplomatic channels, the subject matter of this communication, drawing

that Government's attention to the desire of the Hydro-Electric Power Commission of Ontario to co-operate in furthering the early development of additional power from the Niagara River.

Sincerely yours,

Rt. Honourable R. B. BENNETT,
Prime Minister and Secretary
of State for External Affairs,
Ottawa, Canada.

M. F. HEPBURN

No. 18.

*From the Prime Minister of Canada,
To the Premier of Ontario.*

OTTAWA, August 29, 1934.

DEAR MR. HEPBURN,

I am in receipt of your communication of August 13th calling my attention to the resolution adopted by the Hydro-Electric Power Commission of Ontario at its meeting on July 18th, with respect to the desirability of securing additional power from the waters of the Niagara River, and requesting that I bring to the attention of the Government of the United States the subject matter of your communication.

I note also your statement that the Hydro-Electric Power Commission is prepared to co-operate most cordially with the National Power Policy Commission recently appointed by the President of the United States, or such other bodies as may be authorized, in preparing scientific data upon which the Governments of the two countries may base an international agreement for such increased use of the waters of the Niagara River as may seem to them in the best interests of both countries, having due regard to the prevention of injury to the scenic beauty of the Great Cataract and its preservation for the benefit of future generations.

I can assure you that the efforts of the Hydro-Electric Power Commission of Ontario, towards securing additional power from the Niagara River, having due regard for the full protection of the scenic values of the falls and rapids, will receive the full co-operation of the Government of Canada. As you intimate, this objective is one which can only be attained in collaboration with the Government of the United States. You are further aware that the problem is one to which the Governments of Canada and the United States have already devoted exhaustive consideration and one which has, I believe, already been advanced a considerable way towards a solution.

It may be helpful to review briefly the developments which have already taken place particularly as regards the international phases of the situation.

Towards the latter part of 1925 the Dominion Government received communications from the Province of Ontario pointing out the necessity

of securing additional power for the southwestern section of the Province and urging that action be taken looking towards the securing of additional power from the Niagara River. Sympathetic consideration was immediately given to these communications by the Dominion Government.

At about the same time a communication was received from the Government of the United States, in which it was suggested that the two Governments might jointly consider undertaking remedial works at the Falls for the purpose of protecting the scenic values. It was further indicated that in the view of the Government of the United States, the question of the diversion of water for power purposes should be excluded from the scenic preservation investigation.

The Dominion Government reached the conclusion that the provision of remedial measures at the Falls was inextricably interwoven with the question of the past and possible future diversion of water for power purposes and that a decision on either issue could not be made without taking into account the bearing of the other factors. After consultation with the Province of Ontario it was accordingly proposed to the Government of the United States that both the provision of remedial measures and the diversion of water for power purposes should be dealt with concurrently and an immediate meeting of accredited officers of the two Governments was suggested with a view to determining a common policy.

This meeting was held, and arrangements were completed for an exhaustive investigation into the preservation of the scenic beauty of Niagara Falls and an analysis of all the factors relative thereto. The Special International Niagara Board was constituted by the two Governments to make this investigation; joint terms of reference were agreed upon in October, 1926, and were referred to the Board for action.

The objective of the Board's investigation was, in brief, to determine how the scenic beauty of Niagara Falls and rapids could best be maintained and by what means and to what extent the impairment thereof by erosion or otherwise could be overcome and, consistent with the preservation of the scenic beauty of the Falls and river, to determine what quantity of water, additional to that permitted to be diverted by the Boundary Waters Treaty of 1909, might be diverted either temporarily or permanently.

There followed an exhaustive investigation into all phases of the Niagara problem and on December 14, 1927, the Special Board submitted to the two Governments an Interim Report setting forth facts and conditions which afforded ample basis for the Board's conclusions that, with adequate action, supervision and control by the two Governments, the scenic beauty of the Falls could be preserved for the enjoyment of future generations and that by suitable remedial works designed to distribute the water over the presently bared flanks of the Falls, the tendency towards erosion in the bend of the Horseshoe could be modified

to some extent and at the same time an enhancement of the present scenic beauty of the spectacle as a whole could be ensured.

The Board recommended the early construction of the initial remedial works and reported that a further and most important end which this initial construction would serve would be the opportunity afforded the two Governments actually to test in practice the effect of temporary additional withdrawals of water and the efficiency of the remedial works to offset such withdrawals.

Following the publication and widespread distribution of the above report of the Special Niagara Board, the Hydro-Electric Power Commission of Ontario and the Niagara Falls Power Company of New York, on April 9, 1928, jointly offered to construct the remedial works proposed by the Board, under strict and complete governmental supervision and control, conditional upon their being permitted to utilize during the winter season only, ten thousand cubic feet per second on each side of the river additional to that presently permitted to be diverted under the Boundary Waters Treaty, the additional water to be used in the power stations and through water passages already constructed.

The Special Niagara Board, in a report dated May 3, 1928, reviewed this joint proposal of the Commission and the Company and recommended its acceptance by the two Governments subject to stringent conditions as to absolute and complete governmental control throughout, by the Niagara Board of Control, both as to the design and construction of the remedial works and as to the withdrawal of the additional amounts of water proposed during the winter season.

After reviewing the Board's report and conferring on the suggestions and recommendations contained therein, the two Governments agreed to put them into effect and embodied this agreement in the Niagara Convention and Protocol signed on behalf of the two Governments at Ottawa on January 2, 1929.

The Convention and Protocol were approved by the Canadian Parliament on May 20, 1929.

The Convention was brought before the Foreign Relations Committee of the United States Senate in accordance with the customary procedure of that body when considering the ratification of international agreements. It was considered by the Committee on more than one occasion. Opposition developed, and finally on February 18, 1931, the Committee reported against its ratification.

In the meantime, following the submission of the Interim Report, the Special International Niagara Board continued its investigations, submitting its Final Report to the two Governments on December 11, 1929. This Final Report emphasized the fact that the first step would be to undertake initial experimental work at the Falls.

Having in mind the paramount necessity of preserving the scenic values of Niagara and also the absolute necessity of Canada and the United States working together if anything is to be effected, you will

appreciate from the foregoing, that the only avenue of successful advance lies in following the lines of the exhaustive studies and reasonable conclusions reached as a result of the studies made by the Special International Niagara Board under the direction of the two Governments.

The situation in the United States has changed in some respects since the rejection of the Niagara Convention in 1931, and it may now be possible to secure a reconsideration of its provisions. The matter has engaged the attention of the Canadian Minister during recent months. I shall be glad to take such steps as are necessary, through the appropriate channels, to resume discussions with the United States Government. I trust that in this way an opportunity will be afforded of considering all phases of the Niagara problem, inclusive of the points raised in your communication.

As you are aware, the water power resources of southern Ontario are almost wholly confined to International or Interprovincial waters where the co-operation of the Dominion and the Province is essential to their realization as sources of hydro electric energy. The Niagara represents only one of these potential sources of further power. It seems clear that in considering how best the two Governments can co-operate in the case of Niagara, it will be desirable—if an orderly and co-ordinated program, looking to the progressive supply of power for provincial use is to be worked out—to consider also the possibilities of the St. Lawrence and other projects where action by the two Governments is required. In this I can assure you of the sympathetic collaboration of this Government.

I may add that throughout the investigations and the negotiations leading up to the signing of the Convention, closest collaboration has been maintained with the Government of Ontario and with the Hydro-Electric Power Commission and that I trust this policy will be continued in the further developments.

As there are many important phases which I have been unable to touch upon within the compass of this communication and which I believe it would be advantageous to discuss in detail, I will be glad to instruct Mr. J. T. Johnston, Director of the Dominion Water Power and Hydrometric Bureau, and a Member of the Special International Niagara Board, to communicate with Mr. Stewart Lyon, Chairman of the Hydro-Electric Power Commission, with a view to arranging for a conference with the Commission at some early and mutually convenient date, for the purpose of reviewing all phases dealt with in the foregoing and of insuring complete co-ordination of effort in the further action planned.

My personal opinion is that such a discussion would be of distinct benefit at the present time.

Yours faithfully,

The Hon. M. F. HEPBURN,
Prime Minister of Ontario,
Toronto, Ont.

R. B. BENNETT

No. 19.

*From the Premier of Ontario,
To the Prime Minister of Canada.*

TORONTO, March 30, 1935.

DEAR MR. BENNETT:

Re: Niagara River

Your letter of August 29, 1934, dealing with the further diversion of water from the Niagara River for power purposes was discussed by the Hydro-Electric Power Commission and Mr. J. T. Johnston, Director of the Dominion Water Power and Hydrometric Bureau, in accordance with the suggestion contained in the latter part of your letter. Following this conference, which took place on September 14, 1934, this matter has been given constant consideration.

I appreciate the assurance contained in your letter that the efforts of the Hydro-Electric Power Commission towards securing additional power at Niagara, having due regard to the protection of the scenic value of the falls and rapids, will receive the full co-operation of your Government.

I note also, your resumé of the developments which have already taken place leading up to the unfavourable report in 1931 of the Foreign Relations Committee of the United States Senate upon the Niagara Convention and Protocol of 1929, and the consequent non-ratification of the Convention by the United States, and, further, your intimation that the matter has engaged the attention of the Canadian Minister at Washington during recent months.

As a result of the above conference with Mr. Johnston in regard to the various matters covered by and incidental to your communication, collaboration of viewpoint and effort in the further developments in connection with these matters was ensured. In accordance with conclusions reached at this conference and with the suggestion contained in your communication, I would be glad if you would arrange to have the Canadian Minister at Washington initiate such action as may be necessary to secure progress along the lines of the Convention and Protocol of 1929. In this connection your attention is called to the possible necessity of the revision of the dates mentioned in the Treaty and Protocol.

I am now in receipt of a minute of the Hydro-Electric Power Commission, passed at their meeting of March 19, 1935, dealing with the report that the President of the United States proposed, that in negotiating an agreement with Canada for joint action for the prevention of further erosion of Niagara Falls, there should be no permanent allocation of water rights or any additional use of water by either private or public power companies on either side of the Niagara River; I have pleasure in enclosing herewith a copy of this minute. In view of

the adverse effect of such an agreement on the plans of the Hydro-Electric Power Commission for the development of further power from the Niagara River, I most strongly urge against the negotiation and ratification of a treaty along the lines that we understand is now proposed by the President of the United States.

I appreciate the readiness of your Government to collaborate with the Province of Ontario in respect to these important waterway problems, and particularly in respect to this Niagara River matter.

I trust it will be possible to give immediate consideration to the proposed amendments forwarded to you by the President of the United States, and to assure this Government and the Hydro-Electric by an early reply to us that the Government of Canada will not consent to the ratification of the Niagara Convention and Protocol of 1929 unless it contains the clauses providing for the additional use of water, as outlined in the terms of the Treaty of 1929.

Sincerely yours,

Right Honourable R. B. BENNETT,
Prime Minister of Canada,
Ottawa, Canada.

M. HEPBURN

EXCERPT OF MINUTES OF MEETING OF THE HYDRO-
ELECTRIC POWER COMMISSION OF ONTARIO
HELD ON MARCH 19th, 1935

The Chairman brought to the attention of the Commission a statement made by President Roosevelt on Friday, March 15th, 1935, at Washington, to the effect that in negotiating an agreement with Canada for joint action in the prevention of further erosion of Niagara Falls and the further preservation of the scenic beauty of the Cataract, he proposed that there should be no permanent allocation of water rights, nor any additional use of water, by either private or public power companies on either side of the Falls.

As this statement strikes at the very root of the Commission's plans to obtain a large part of its future supplies of electric energy from the waters of the Niagara River, the Chairman expressed the view that vigorous representations should be made at once to the Dominion Government against the negotiation and ratification of a Treaty along the line suggested by Mr. Roosevelt.

The Treaty negotiated in 1928, adopted by the Canadian Parliament and presented to the Senate of the United States for its consent early in 1929, provided for a temporary diversion during the winter, not exceeding 10,000 c.f.s.

The engineers of the Commission are certain that under the proposed works, including the construction of a sunken dam on the Upper Rapids, there will be no harm done to the scenic beauty of the Falls.

ARTICLE II

Concurrently with the construction and tests of the remedial works and as a temporary and experimental measure, diversions of the waters of the Niagara River above the Falls from the natural course and streams thereof additional to the amounts specified in Article 5 of the Boundary Waters Treaty of January 11th, 1909, may be permitted to the extent and subject to the conditions hereinafter provided:

- (1) The additional diversions shall be permitted only within the period beginning each year on the first day of October and ending on the thirty-first day of March of the following year, both dates inclusive.
- (2) The additional diversion to be permitted within the State of New York shall not exceed in the aggregate a daily diversion at the rate of ten thousand cubic feet of water per second.
- (3) The additional diversion to be permitted within the Province of Ontario shall not exceed in the aggregate a daily diversion at the rate of ten thousand cubic feet of water per second.
- (4) The provisions of this Article shall terminate seven years from the date of the initial additional diversion authorized under this Convention.

Approval was given for such representations to be made at Ottawa and Washington as the Chairman may consider necessary to protect the interests of the Commission in this matter.

Certified correct

W. W. POPE

Secretary

No. 20.

*From the Chairman, Hydro-Electric Power Commission of Ontario,
To the Under-Secretary of State for External Affairs.*

TORONTO 2, November 16, 1935.

O. D. SKELTON, Esq., Ph.D., LL.D.,

Under-Secretary of State for External Affairs,
Ottawa, Ontario.

DEAR DR. SKELTON,—An Associated Press dispatch from Washington, under date of November 13th, states that: "President Roosevelt is studying the problem of protecting Niagara Falls from excessive erosion. He said at his Press conference to-day that Prime Minister W. L. Mackenzie King also is interested. When there was a huge break in the crest of the Falls last Spring, the President asked the Federal Power Commission and Army Engineers to co-operate with the New York State Power Authority in a study of protective measures."

The Hydro-Electric Power Commission of Ontario is naturally interested in any steps that may be taken to prevent excessive erosion at the Falls, and is fully committed to participation in the work of constructing the sunken arrow-shaped crib work above the upper rapids, so that the great volume of water pouring over the centre of the Horse Shoe, which is one of the chief causes of erosion, shall be directed to the two banks of the river, making a continuous crest at the edges of the Horse Shoe and American Falls, where now very little water passes over.

It is our opinion that such a redistribution of the water passing over the Falls would not only greatly improve the scenic beauty of the cataract, but would enable us to divert a considerable quantity of additional water to the power plants on both sides of the river, during the winter season when visitors are few and when the need for power is much greater than at the time Niagara is one of the principal attractions for summer tourists in the Lake region. You have in your office the material upon which the agreement was arrived at, regarding the construction of this sunken crib work, and I have no doubt it would be dug up, if and when Mr. Roosevelt and Mr. King get down to a consideration of the details of the erosion problem.

There is, however, some material which I wish to lay before you, in connection with a matter closely related to this question of erosion and conservation of the waters of the cataract.

At the present time the levels of the lakes and of the Niagara River are almost the lowest ever recorded. A serious result of this condition is a reduction of the output from the Commission's generating stations, at and about the Falls, of approximately 80,000 horsepower below the rated capacity of the plants. In fact, machinery that as recently as ten years ago was generating some 830,000 horsepower cannot be depended upon to provide, under existing Treaty limitations for the use of water, more than 745,000 horsepower during the months of low water, and 780,000 horsepower at periods of maximum production. This means the loss of the use of from five to ten per cent of the Commission's capital invested in these plants at Niagara Falls.

To overcome this condition which, as you know, is aggravated by the withdrawal of water by Chicago from Lake Michigan for sanitary purposes, Dr. T. H. Hogg, the Commission's Chief Hydraulic Engineer, has brought forward again the project known as "The Ogoki Diversion." I am enclosing herewith a copy of the memorandum supplied to the Commission on January 9th, 1935, by Dr. Hogg, discussing the diplomatic steps necessary to be taken to secure, for the purposes of the Commission, the use of the water now flowing into Hudson Bay from the Ogoki, a tributary of the Albany River.

You will observe, from this memorandum, that Mr. King's Government favoured the diversion and took the necessary steps to secure the consent of the United States to the use of this water in the Commission's

plants at Niagara Falls. It is of importance that the Commission should learn, at the earliest possible moment, whether Mr. King's present administration takes the same view of the question.

If there has been any modification of that view, the Commission will seek to make representations to the Government, showing that the Ogoki diversion has now become an urgent matter, because of the great reduction of the levels in the Great Lakes, harbours, and river waterways of the St. Lawrence system since 1925, when the matter was before Mr. Stewart.

I trust that on the Premier's return from the South, you will be able speedily to bring this matter to his attention, and let the Government of Ontario and the Commission know what steps the Dominion Government is prepared to take to secure the assent of the Government of the United States to the immediate prosecution of the Ogoki diversion works.

Faithfully yours,

T. S. LYON

Chairman.

COPY

THE CHAIRMAN.
OGOKI DIVERSION

January 9, 1935.

The possibility of diverting water from the James Bay watershed into that of the Great Lakes was first raised by Mr. R. Kiemle in a letter to the Chief Engineer of the Commission in July of 1923. He stated that, from a personal knowledge of part of the country, he considered the possibility of diverting these waters into the drainage basin tributary to Lake Superior warranted investigation. As a result, in January, 1924, Mr. McLennan, of the Hydraulic Department, and Mr. Kiemle made a reconnaissance of the height of land between the Ogoki and the headwater of the Jackfish River, and the divide between the Albany and Ogoki Rivers.

The information secured justified a more detailed study of the proposal, and the Commission therefore authorized placing a party in the field for that purpose. During the summer of 1924, the winter of 1924-25 and the summers of 1925 and 1926, surveys were made, with the result that it was determined that, by placing a dam in the vicinity of Waboose Rapids, the headwaters of the Ogoki River might be diverted by way of Mojikit Creek and Lake into the headwaters of the Little Jackfish River and, by way of that water course, into Lake Nipigon. The studies indicate that a mean flow of approximately 4,000 cubic feet per second may be diverted into the Great Lakes basin as a cost estimated not to exceed \$3,000,000.

In so far as the diversion of the waters of the Ogoki into the Nipigon drainage basin is concerned, the question of its diversion, control and use is a purely domestic one, and may be considered from the standpoint

of the relative expediency and economy of making the water available for the production of power at some point where it may now be utilized, rather than allowing it to follow its natural course with the expectation that at some distant date it may be required for the production of power in the more remote districts. When, however, the diverted water reaches the Great Lakes, the question is no longer a domestic one, but at once becomes of international import.

In February, 1925, the Honourable G. H. Ferguson wrote to the Honourable Charles Stewart, of the Department of the Interior, Ottawa, advising him that the diversion of water from the Albany River into Lake Superior by way of Lake Nipigon was under consideration, and that he wished to point out, as the water to be diverted was unquestionably Ontario water which would be added to the Great Lakes system, that it should be looked upon as belonging to the Province all down the boundary. He asked, therefore, that assurance would be given, in any question which might arise, that the Dominion Government would consider the water the exclusive property of the Province, aside from any claim it might have for division of other waters.

In replying to this letter, Mr. Stewart stated in his letter of May 4th, 1925, that he and his colleagues of the Cabinet Council were of the opinion that if the Government was prepared to give the necessary authorization to divert water from the Albany, and forego the navigation and power advantages on the Albany inherent in the water so diverted, it would undoubtedly be justified in claiming that the water, when added to the Great Lakes system, should still be considered Canadian water. He stated that he was prepared to assure Mr. Ferguson that the Government would maintain this viewpoint in any questions which came before it having to do with the consideration of the Great Lakes and the St. Lawrence waterway, particularly with respect to the apportionment of water as between Canada and the United States.

In 1909, a treaty, known as the Boundary Waters Treaty, was negotiated between Canada and the United States, and ratifications were exchanged in 1910. Boundary waters are defined by this treaty as follows:

"The waters from main shore to main shore of the lakes and rivers and connecting waterways, or the portions thereof, along which the international boundary between the United States and the Dominion of Canada passes, including all bays, arms and inlets thereof, but not including tributary waters which in their natural channels would flow into such lakes, rivers and waterways, or waters flowing from such lakes, rivers and waterways, or the waters or rivers flowing across the boundary."

Under article III of the treaty it is provided that:

"In addition to the uses, obstructions and diversions heretofore permitted or hereafter provided for *by special agreement* between

the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission to be known as the International Joint Commission."

Under article VII of the treaty, Canada and the United States agree to establish an International Joint Commission.

Article VIII provides that the International Joint Commission shall have jurisdiction over, and shall pass upon, *all* cases involving the use or obstruction or diversion of waters with respect to which, under article III, approval of the Commission is required.

It is also provided under article VIII of the treaty that the Commission shall be governed by the principle, among others, that "the High Contracting Parties shall have, each on its own side of the boundary, *equal and similar rights in the use of the waters* defined as boundary waters." The requirement for an equal division may only be suspended in the case of a temporary diversion. A careful study of the treaty leaves little room for doubt that the water diverted from the Ogoki would, when it reached the Great Lakes and the connecting channels, be considered under the Boundary Waters Treaty to be boundary water, and that, as such, it would be subject to division, equally, between the two countries.

The St. Lawrence Deep Waterway Treaty provides for the diversion of water from the Ogoki watershed into the Great Lakes system. Clause (d), article VIII, states as follows:

"In the event of diversion being made into the Great Lakes system from watersheds lying wholly within the borders of either country, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall, notwithstanding the provisions of article IV (a), be vested in the country diverting such waters, and the quantity of water so diverted shall be at all times available to that country for use for power below the point of diversion, so long as it constitutes part of boundary waters."

As between the United States and Canada, the clause quoted from the Treaty was a matter of negotiation and, presumably, was the result of some concession made to the United States.

Under clause (e) article VIII, Canada-Ontario St. Lawrence Agreement, Ontario was assured the right to use waters equivalent in quantity to the waters diverted from the Ogoki for the development of power from the point of diversion to the easterly end of the international rapids section of the St. Lawrence, thus recognizing the principle as between the Dominion and Ontario that the latter, as contended, has exclusive jurisdiction over a quantity of water equivalent to that diverted.

In the event that the St. Lawrence Deep Waterway Treaty is not ratified, further negotiations would have to be instituted through the Dominion Government, since the question of diversion into the Great Lakes system involves international rights. There appears to be two methods which may be followed,—either the Dominion may institute negotiations for a new treaty, or the question can be referred to the International Joint Commission. If the latter course is adopted, then the reference may be made in one of two ways,—either under article IX or article X of the Boundary Waters Treaty.

Article IX provides that:

“The High Contracting Parties further agree that any other questions or matters of difference arising between them involving the rights, obligations, or interests of either in relation to the other or to the inhabitants of the other, along the common frontier between the United States and the Dominion of Canada, shall be referred from time to time to the International Joint Commission for examination and report, whenever either the Government of the United States or the Government of the Dominion of Canada shall request that such questions or matters of difference be so referred.”

“The International Joint Commission is authorized in each case so referred to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.”

Such reports of the Commission shall not be regarded as decisions of the questions or matters so submitted either on the facts or the law, and shall in no way have the character of an arbitral award.”

Article X provides that:

Any *questions* or matters of difference arising between the High Contracting Parties involving the rights, obligations, or interests of the United States or of the Dominion of Canada either in relation to each other or to their respective inhabitants, may be referred for decision to the International Joint Commission by the consent of the two Parties, it being understood that on the part of the United States any such action will be by and with the advice and consent of the Senate and on the part of His Majesty's Government with the consent of the Governor General in Council. In each case so referred, the said Commission is authorized to examine into and report upon the facts and circumstances of the particular questions and matters referred, together with such conclusions and recommendations as may be appropriate, subject, however, to any restrictions or exceptions which may be imposed with respect thereto by the terms of the reference.

"A majority of the said Commission shall have power to render a decision or finding upon any of the questions or matters so referred."

"If the said Commission is equally divided or otherwise unable to render a decision or finding as to any questions or matters so referred, it shall be the duty of the Commissioners to make a joint report to both Governments, or separate reports to their respective Governments, showing the different conclusions arrived at with regard to the matters or questions so referred, which questions or matters shall thereupon be referred for decision by the High Contracting Parties to an umpire chosen in accordance with the procedure prescribed in the fourth, fifth, and sixth paragraphs of Article XLV of The Hague Convention for the pacific settlement of international disputes, dated October 18, 1907. Such umpire shall have power to render a final decision with respect to those matters and questions so referred on which the Commission failed to agree."

It will be observed, under article IX, that either of the High Contracting Parties *may* refer questions or matters of difference to the Commission for examination and report, but, under those circumstances, the report cannot be regarded as a decision. In other words, it is simply an expression of opinion and, as such, would only afford a starting point for further negotiations and action. If the reference is made under article X, then it is necessary to have the consent of both parties, and in the case of the United States such consent must be given with the advice and consent of the Senate; to all intents and purposes the same process, with all its difficulties, as would be faced if a treaty were negotiated. Further, having secured the consent of both parties, then it appears that both are bound by the finding of the Commission, or failing a decision of that body, then they are bound by the findings of the umpire provided for under the article.

Referring again to article VIII, it is pointed out that the Commission is governed by the principle that each of the High Contracting Parties shall have equal and similar rights in the use of the waters. Under the treaty, any diversion into the Great Lakes System would be considered boundary water. It would appear, therefore, that in any reference to the International Joint Commission dealing with the allocation of water, it would be impossible for them to make other than an equal division of the flow.

Considering these limitations, it does not appear that Ontario could obtain the right to the exclusive use of a quantity of water equivalent to that diverted into the Great Lakes system from the Ogoki by reference to the Commission, though, under the Boundary Waters Treaty, it would be necessary to obtain *approval* from the Commission of such diversion, because of its effect upon the levels of the lakes and connecting rivers and channels.

The only course that could ensure the right of the exclusive use of the equivalent quantity of water so diverted would appear to be through the negotiation of a separate treaty between the Dominion of Canada and the United States. It is likely that such negotiations would result in the re-opening of the question of diversion at Chicago and the division of the flow for power at Niagara. This procedure would, however, leave Canada free to withdraw if it was found that the advantages, due to the diversion, were offset by too onerous conditions imposed by the treaty.

Respectfully submitted,

(Sgd.) "T. H. H."
Chief Hydraulic Engineer.

No. 21.

*From the Chairman, Hydro-Electric Power Commission of Ontario,
 To the Under-Secretary of State for External Affairs.*

TORONTO, December 27th, 1935.

DEAR DR. SKELTON,—On November 16th, a letter was addressed to you at the Department of External Affairs, in which reference was made to a conversation, said to have taken place at Washington, regarding the erosion of Niagara Falls, and the low levels of the Niagara River.

In that connection it was pointed out that the Hydro-Electric Power Commission is naturally interested in any steps that may be taken to prevent excessive erosion, and to secure a better distribution of the water over the crest of the Falls. For the further statements contained in the letter, I would refer you to the original, which must be in your files.

No acknowledgment of the letter in question has been made, nor has any statement been sent forward to the Commission as to the position Mr. King's present administration is likely to take, in regard to the raising of the levels of the Niagara River by the Ogoki Diversion, which the Commission believes has now become an urgent matter.

I am hoping that the memorandum from Dr. Hogg, accompanying the letter sent to you on November 16th last, will be laid before the Prime Minister, as Minister of External Affairs, as soon as possible, so that before the Session of Congress—which begins next week—comes to an end, steps may be taken to obtain approval by the Senate to the Ogoki Diversion, as already sanctioned and approved by the Dominion Government.

Faithfully yours,

T. STEWART LYON

O. D. SKELTON, Esq., Ph.D., LL.D.,

Chairman.

Under-Secretary of State for External Affairs,
 Ottawa, Ontario.

No. 22.

*From the Under-Secretary of State for External Affairs,
To the Chairman, Hydro-Electric Power Commission of Ontario.*

OTTAWA, 14th January, 1936.

DEAR MR. LYON,—Your letter of November 16th, regarding Niagara and Ogoki matters, was awaiting me on my return to Ottawa last month. The important questions it raises were at once given consideration, but I regret it has not yet been possible to send a definite reply. I hope this can be done next week. In the meantime I am sending this belated acknowledgment.

Yours sincerely,

T. S. LYON, Esq.,

O. D. SKELTON

Chairman, Hydro-Electric

Power Commission of Ontario,

620 University Avenue,

Toronto 2, Ontario.

No. 23.

*From the Under-Secretary of State for External Affairs,
To the Chairman, Hydro-Electric Power Commission of Ontario.*

(Sent February 20, 1936)

Confidential

OTTAWA, 15th February, 1936.

DEAR MR. LYON,—May I refer to my letter of the 14th January and to your letter of November 16th regarding Niagara and Ogoki matters, and to express my regret for the delay which has occurred in dealing definitely with the questions you raised.

I have read with much interest your letter and the memorandum by Dr. Hogg which you enclosed. Your communication deals with international waterway matters of outstanding importance to the Dominion and to Ontario. May I for the sake of clearness review some points with which you are of course quite familiar?

You recall that in 1925 the Canadian Government advised the Prime Minister of Ontario that if it should be decided to add to the Great Lakes System water from another system in Canada, the Government would endeavour, as regards the Great Lakes and the St. Lawrence waterway system and particularly as regards the question of apportionment of water between Canada and the United States, to maintain the principle that such water should be considered Canadian.

The only course that would ensure the exclusive right to the use of waters diverted into the Great Lakes System from Ogoki, or rather their equivalent in quantity, would appear to be the successful conclusion of a treaty between the United States and the Dominion of

Canada. I fully agree with the view taken in Dr. Hogg's memorandum that the alternative procedure, namely, a reference to the International Joint Commission under Article IX or Article X of the Boundary Waters Treaty, would not ensure conclusive results, since any report by the Commission under these Articles, to be effective, would require the consent of the United States Senate either before or after the reference, exactly as in the case of the conclusion of a treaty.

An endeavour has already been made to deal with both the Niagara and the Ogoki questions in treaties with the United States. Provision for the preservation of the scenic values of Niagara Falls and for the experimental diversion of water for power purposes was contained in the Niagara Convention, based upon the report of a Special International Niagara Board and signed at Ottawa on January 2, 1929. The Convention and Protocol were approved by the Canadian Parliament a few months later, but in February, 1931, the Foreign Relations Committee of the United States Senate reported against the Convention.

The Deep Waterway Treaty of 1932, in addition to providing for a deep waterway from the Upper Lakes to the sea through the St. Lawrence, the definitive settlement of the Chicago Diversion question, the provision of compensation works in the Niagara and St. Clair Rivers, and the international co-operation necessary for any development of the water power in the international section of the St. Lawrence, included, as you note, a provision in Article 8 designed especially to deal with the Ogoki situation, to the effect that in the event of diversions being made into the Great Lakes System from watersheds lying wholly within the borders of either country, the exclusive rights to the use of waters equivalent in quantity to the waters so diverted should be vested in the country diverting such waters, and the quantity so diverted should be at all times available to that country for use for power below the point of diversion, so long as it constituted a part of boundary waters. The treaty has thus far failed to secure the requisite two-thirds majority of the Senate required for acceptance by the United States.

You emphasize the desirability of steps being taken to secure the consent of the Government of the United States to the immediate prosecution of the Ogoki diversion and the diversion of further water at Niagara for power purposes, and point out that the addition of the Ogoki waters to the Great Lakes System would go far to solve the difficulties arising at Niagara and elsewhere because of the present low levels of the Great Lakes.

The Canadian Government has supported both the Ogoki and the Niagara projects in the past and still maintains that view. The whole situation has been discussed informally but repeatedly with United States authorities. I regret to state that there does not appear to me at present much prospect of action on the lines you suggest.

As regards Niagara, the present attitude of the United States administration is definitely to confine action to improvement of the

scenic values, and to postpone consideration of further power utilization. I understand it is the intention of the Canadian Government to continue to press the question, but I see no immediate likelihood of a change in the attitude of the United States.

As regards the Ogoki, the question would be settled definitely and satisfactorily if the St. Lawrence Deep Waterway Treaty were ratified by both countries. As you will have noted from the press, there is no possibility of action on the treaty being taken by the United States Senate at this session. The alternative of seeking action on the Ogoki question alone would not seem to have any prospect of success. A separate treaty for this purpose would be difficult to negotiate with the United States, for the double reason that the Administration would not wish to sidetrack the St. Lawrence Treaty, and that it could not in the present short pre-Election session, undertake any new negotiations. If negotiated, a treaty dealing with Ogoki alone would I think, have much less chance of being accepted by the United States Senate than the incidental provision on the same subject in the St. Lawrence Treaty, since it would obviously be designed wholly for the benefit of Canada so far as power utilization is concerned. The addition of the Ogoki waters to the Great Lakes System would, of course, help both countries so far as navigation interests are concerned by raising the level of the Lakes and St. Lawrence, but that aspect of the question is difficult to separate from the sections of the St. Lawrence Treaty dealing with the Chicago diversion and the erection of compensation works.

I shall be glad at any time to go into this question with you further.

Yours sincerely,

O. D. SKELTON

T. STEWART LYON, Esq.,
Chairman, Hydro-Electric Power
Commission of Ontario,
Toronto, Ontario.

No. 24.

*From the Prime Minister of Canada,
To the Premier of Ontario.*

Confidential

OTTAWA, 8th January, 1937.

DEAR MR. HEPBURN,

My colleagues and I have been giving consideration to the position of the St. Lawrence Deep Waterway Treaty of 1932 and the Niagara Convention of 1929, and have recently had some discussions on both questions with representatives of the United States Government.

You of course recall that the Niagara Convention and Protocol based upon the Report of the Special International Niagara Board and signed at Ottawa in 1929, were approved by the Canadian Parliament in that year, but were reported against in 1931 by the Foreign Relations

Committee of the United States Senate; and also that the Deep Waterway Treaty of 1932 failed in 1934 to secure the requisite two-thirds majority in the United States Senate. The President of the United States is now considering what action he should recommend during the present session of Congress, and in this connection desires to have some indication of the attitude of the Canadian Government.

From our discussions it appears that the United States Federal Administration is definitely interested in the development of the opportunities of the St. Lawrence-Great Lakes System for transportation and power. They believe that that whole system should be considered as a unit, and plans made by the Governments concerned for the co-ordinated and orderly development of its transport and power possibilities. They recognize that it may not be possible to put in hand all the developments simultaneously, but consider that a general plan should be kept in view, of which the several parts could be put into effect as opportunity permitted.

It is further quite clear that they are much more interested in the St. Lawrence than in the Niagara Treaty. The St. Lawrence Deep Waterway would provide, along with the New Welland Canal, the improved transportation in which so many of the Western and Lake States are interested, while as regards power, development of the international section of the St. Lawrence is free from the difficulties that arise at Niagara because of the objection on the part of the United States authorities to strengthening directly or indirectly the position of the private companies which now own and operate all the plants on the United States side of the Niagara River. It is possible that a way might be found for further development of power on the United States side of the Niagara consistent with the principle of public ownership, but in any case it is quite clear that it will not be possible to make any agreement with the United States with regard to Niagara without asking an agreement on the St. Lawrence as well. Provision for the exclusive right for power purposes to any water diverted to the Great Lakes System from Ogoki is included in the present St. Lawrence Treaty, which also provides a definitive settlement of the Chicago diversion question.

The suggestion has been made that the St. Lawrence development might be agreed upon, with a proviso that the erection of the power-houses and the instalment of machinery on the Canadian side might be postponed for an agreed period after the completion of the navigation works and power substructures (which in itself, I understand, would require six or seven years after the ratification of the Treaty). Whether or not in that case it would be possible to provide for an early utilization of additional water by Ontario at Niagara in accordance with the provisions of the Niagara Treaty but with some variation in the present

Protocol (which provides for intervention of the Niagara Falls Power Company), is a further question that would require consideration.

This whole question is one in which the Province of Ontario is vitally interested. I should be glad to discuss the question with you or to arrange for a discussion by technical officers with the Hydro-Electric Commission. In the meantime I should like to have an indication of your views to enable me to reply to the enquiries from the United States. In view of our discussions with the United States, I have marked this letter "confidential".

Yours sincerely,

W. L. MACKENZIE KING

The Honourable MITCHELL HEPBURN,
Prime Minister of the Province of Ontario,
Toronto, Ontario.

No. 25.

*From the Premier of Ontario,
To the Prime Minister of Canada.*

Confidential

TORONTO, January 16, 1937.

DEAR MR. KING,

In reply to your letter of January 8th, with reference to the proposed St. Lawrence Deep Waterway, I have on various occasions made my position very clear in this regard. I do not believe the project can be justified on economic grounds inasmuch as we are neither in need of a new avenue of transportation nor additional electrical power.

With the proposed air service across Canada, even further losses will have to be sustained by the Railways, whose financial positions now are not enviable.

Should our efforts to protect the hydro consumers of Ontario against the power interests of Quebec prove futile, it would mean we would have to immediately pay for Eight and a Half Million Dollars worth of unsaleable power which, in my opinion and in the opinion of technical experts, would take care of our ordinary increase in power consumption over a period of many years.

The whole St. Lawrence project to my mind, looks like another beautiful dream comparable to the Hudson Bay Railway and the T. and N.O. Railway extension to James Bay. We must not overlook the fact that the canal would be frozen over a good many months of the year, and most of the exporters' contracts with the transportation companies on a yearly basis.

I might also add that the Province of Ontario is interested with respect to not only our Trans-Canada Highway, a large section of

which is yet to be completed, but also with regard to our publicly-owned T. and N.O. Railway, which would suffer a loss in tonnage and revenue.

With kindest regards, I am

Yours very sincerely,

M. F. HEPBURN

Rt. Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

No. 26.

*From the Provincial Secretary of Ontario,
To the Secretary of State of Canada.*

TORONTO, July 21, 1937.

DEAR MR. RINFRET:

Re: Long Lac Diversion

In January 1924, a reconnaissance survey was made by engineers of the Hydro-Electric Power Commission to determine the feasibility of diverting the flow of the Kenogami River, a tributary of the Albany River, to Lake Superior. The information secured indicated that the proposition was feasible. At the same time, an investigation was made of a proposal to divert a part of the flow of the Ogoki River, another tributary of the Albany, to Lake Nipigon, and thence to Lake Superior. In so far as the diversion of the waters of the Ogoki into the Nipigon drainage basin is concerned, the question of its diversion, control and use is purely a domestic one. When, however, the diverted water reaches the Great Lakes, the question at once becomes of international import, and the same is true of any water that may be diverted from Long Lac at the head-waters of the Kenogami River into Lake Superior.

In February 1925, the Honourable G. H. Ferguson wrote to the Honourable Charles Stewart, Minister of the Interior at Ottawa, advising him that the diversion of water from the Albany River into Lake Superior was under consideration and that he wished to point out that, as the water to be diverted was unquestionably Ontario water which would be added to the Great Lakes system, it should be looked upon as belonging to the Province all down the boundary. He asked, therefore, that assurance would be given in any question which might arise that the Dominion Government would consider the water the exclusive property of the Province, aside from any claim it might have in the diversion of other waters.

In replying to this letter, Mr. Stewart stated in a letter dated May 4, 1925, that he and his colleagues of the Cabinet Council were of the opinion that if the Government were prepared to give the necessary authorization to divert water from the Albany, and forego the navigation and power advantages on the Albany inherent in the water so diverted, it would undoubtedly be justified in claiming that the water, when

added to the Great Lakes system, should still be considered Canadian water. He stated that he was prepared to assure Mr. Ferguson that the Government would maintain this viewpoint in any questions which came before it having to do with the consideration of the Great Lakes and the St. Lawrence waterway, particularly with respect to the apportionment of water as between Canada and the United States.

Later, when the St. Lawrence Deep Waterway Treaty, signed at Washington, July 18, 1932, but not ratified, was drafted, provision was made for the retention of the benefit to Canada for any water so diverted into the Great Lakes system. Paragraph (d) of Article VIII in that treaty reads as follows:

"The High Contracting Parties, recognizing their common interest in the preservation of the levels of the Great Lakes system, agree: that, in the event of diversions being made into the Great Lakes system from watershed lying wholly within the borders of either country, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall, notwithstanding the provisions of Article IV (a), be vested in the country diverting such waters, and the quantity of water so diverted shall be at all times available to that country for use for power below the point of diversion, so long as it constitutes a part of boundary waters."

Within the past year, additional surveys have been made in the upper part of the watershed of the Kenogami River and southerly from Long Lac to Lake Superior, with a view to providing a channel for water transportation of a large quantity of pulpwood from the Long Lac area to Lake Superior. This, of course, would permit a part of the waters of the lake to be diverted into the head-waters of Aquasabon River, thence to Lake Superior, and necessitates a dam being built on the Kenogami River some miles below Long Lac and a channel to be excavated from the Southerly end of the Lake across the divide. Sufficient water would be diverted to transport the cut of pulpwood, and, in addition to that, if and when satisfactory arrangements are made, a greater part of the runoff of the watershed above the Kenogami River dam will be diverted southerly. The average amount of the diversion, it is estimated, would be 1,200 cubic feet per second.

As pointed out above, as soon as this water reaches Lake Superior it becomes of international import. I would, therefore, appreciate having from you assistance in connection with this matter in two regards; firstly, regarding permission to divert water into the Great Lakes system; and, secondly, regarding an agreement for the retention for Canada of the benefits of the diversion. Possibly, in view of the acceptance by both the United States and Canada of the principles of diversions into the Great Lakes and that water so diverted shall remain the property of the country making the diversion, as evidenced by their signatures to the St. Lawrence Deep Waterway Treaty, it may not be

necessary at this time to consummate a treaty on this particular item, but the exchange of notes between the proper authorities of the two countries might be sufficient until such time as this question of diversion could be included in a formal treaty.

I would therefore, respectfully request that you transmit through the proper channels our request for permission to divert these waters into the Great Lakes system, and also take whatever steps are necessary to retain for Canada the benefits of the diverted waters.

Yours truly,

H. C. NIXON

Provincial Secretary of Ontario.

The Hon. FERNAND RINFRET, M.P.,
Secretary of State,
Ottawa, Ontario.

No. 27.

*From the Prime Minister of Canada,
To the Provincial Secretary of Ontario.*

Confidential

OTTAWA, 7 September, 1937.

DEAR SIR,

In your letter of July 21st to the Secretary of State of Canada, which Mr. Rinfret transmitted to me, you outlined a project to divert water—averaging 1200 c.f.s.—from the Kenogami River (a tributary of the Albany River), via Long Lake, into Lake Superior for the purpose of carrying pulpwood. In conclusion you asked that your request for permission to divert these waters into the Great Lakes system be transmitted through the proper channels and that the necessary steps be taken to retain for Canada the benefits of the diverted waters.

We have given the matter preliminary examination, and it may be of assistance if I indicate now certain considerations that have presented themselves, though, as will appear, they have for the most part been pointed out in previous communications.

A determining factor in the matter, as your letter points out, lies in its international significance and the necessity to cover it by some arrangement with the United States, in view of their interests in the Great Lakes system. After reviewing certain correspondence of 1925 between the provincial and federal Governments and the resulting Article VIII of the as yet unratified St. Lawrence Deep Waterway Treaty of 1932, you raise the question whether a treaty to cover this particular Long Lake project would be necessary at this time. The suggestion is that possibly a simple exchange of notes might be sufficient until such time as the matters at stake could be included in a formal treaty.

The rules presently governing the division, as between the two countries, of the uses of boundary waters—that is to say, the 36,000 c.f.s.:

20,000 c.f.s. rule at Niagara and the rule of equal division elsewhere—are strict treaty rules, duly ratified and made law on both sides by or pursuant to the Boundary Waters Treaty of 1909. What we have been seeking for a long while and still wish to obtain—namely, a principle or rule that waters diverted from a national watershed into the international waterways should be regarded for certain uses as national waters exclusively, would in effect amount to a modification or qualification of this existing treaty law. I fear, therefore, that we should be on very unsafe ground if we undertook to rely on any instrument differing in its constitutional sanction from the treaty which established the original rules; nor is there any likelihood that the United States executive would be willing to deal on a different legal basis. In other words, this Long Lake case would properly require a formal agreement to be submitted both to the United States Senate and to parliamentary approval here. This was the conclusion reached by the Hydro Electric Power Commission and concurred in by us in the similar case of the Ogoki River diversion project, as shown in Mr. Lyon's letter to Dr. Skelton of November 16, 1935, and the latter's reply of February 20, 1936.

This being the legal position, there remain questions as to the practical chances of obtaining a satisfactory treaty to establish separately the proposed new rule. In this connection, the above mentioned reply to Mr. Lyon reviewed the diplomatic background of the boundary waters situation as it then stood and indicated why such a separate treaty as is now in question appeared to have no prospect of success. The United States Administration would be unwilling to sidetrack the St. Lawrence Treaty for such an object. Even if negotiated, such a separate treaty would have less chance in the United States Senate than the incidental provisions to the same effect in the St. Lawrence Treaty, since practically it would be for Canada's benefit only so far as power is concerned. And while such a diversion into boundary waters would help both countries as to navigation, that aspect is difficult to separate from the St. Lawrence Treaty provisions regarding the Chicago diversion and the compensation works questions.

Since that time there has been some further development in the diplomatic background, of which I informed Mr. Hepburn in a letter of January 8th of the present year. It was also explained at greater length to representatives of the Province and the Power Commission in two conferences held here afterwards on January 14th and February 24th. The discussions with United States representatives then mentioned indicated that the Administration at Washington are definitely interested in developing the St. Lawrence—Great Lakes system for transportation and power; that they are more interested in a St. Lawrence (including transportation) treaty than in a Niagara treaty; and that it would be impossible to reach agreement with them on Niagara without agreeing on the St. Lawrence as well. Similarly, I feel, the whole tenor of the

discussions would indicate their unwillingness to deal piecemeal with a particular item like this proposed diversion and the modification of the legal rule governing the apportionment of waters.

I have tried here to review again some of the main considerations that appear to touch the project you have in mind. We are not only doubtful of the chances of reaching an agreement with the United States on this particular item alone; we appreciate that an attempt to put it forward separately at the present stage might endanger or weaken our position as regards the other outstanding boundary water questions with which it has significant practical inter-relationships and which are important to both the Dominion and the Province.]

I should like to repeat what has been said in other communications, that we wish at all times to co-operate and to assist as far as possible the purposes of the Province or of the Hydro Electric Power Commission in these matters, and we should be glad at any time, if you think it would be desirable, to go into the question further with any representatives who may be named for the purpose.

As regards the domestic aspects of the project, so far as the Dominion is concerned, I may mention that the Government has been advised by the Law Officers that the works proposed to be constructed in connection with the diversion of the water, will need approval under the Navigable Waters Protection Act. This phase of the matter is one which concerns more particularly the Department of Public Works as having the administration of that part of the Act which regulates the construction of works which may affect the navigability of waters. I understand that the Hydro Electric Power Commission have transmitted to that Department for approval plans covering a part of the project.

Yours sincerely,

W. L. MACKENZIE KING

The Honourable H. C. NIXON, M.L.A.,
Provincial Secretary of Ontario,
Toronto, Ontario.

No. 28.

*From the Provincial Secretary of Ontario,
To the Prime Minister of Canada.*

TORONTO, September 9, 1937.

Confidential

DEAR MR. KING:

Your favor of 7th instant regarding diversion of water from Kenogami River, via Long Lake, into Lake Superior duly to hand this morning and I have carefully noted contents.

Permit me to thank you for giving this matter your personal attention and replying so fully.

Yours sincerely,

Rt. Hon. W. L. MACKENZIE KING,
Prime Minister of Canada,
Ottawa.

H. C. NIXON

No. 29.

*From the Prime Minister of Canada,
To the Premier of Ontario.*

Confidential

OTTAWA, November 12, 1937.

DEAR MR. HEPBURN:

Last week we had a further official inquiry from the United States Government, who desire to know whether the Canadian Government are prepared to take up anew the St. Lawrence Waterways matter and allied matters, among which were mentioned the Niagara position and the possible developments in Northern Ontario affecting the Great Lakes levels.

The position of the United States Government and the diplomatic background were outlined in my letter to you of January 8th last, following upon certain conversations with United States representatives held here in the preceding month. A little later, at two conferences held here on January 14th and February 24th, further explanations along this line were given by federal officials to representatives of Ontario and the Hydro-Electric Power Commission. In my letter of September 7th last to Mr. Nixon, the Provincial Secretary, the position was again reviewed, with particular reference to the project to divert water from the Kenogami River, via Long Lake, into Lake Superior, in response to his request that certain action be taken in that connection. For convenience I am attaching a copy of that letter hereto.

The position remains, I believe, substantially as shown by these various communications.

As I indicated before, we recognize that the whole question is one in which Ontario is vitally interested, and in order to be in a position to communicate with the United States Government I should be glad to learn your views. I should also be glad at any time to arrange for a discussion by technical officers here with the Hydro Commission or such representatives as you may designate.

I have marked this letter "confidential" as before because of the nature of our discussions with the United States.

Yours sincerely,

W. L. MACKENZIE KING

The Hon. MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Ontario.

No. 30.

*From the Secretary of the Premier of Ontario,
To the Prime Minister of Canada.*

DEAR Mr. KING:

TORONTO, November, 16, 1937

In the absence of the Prime Minister, I wish to acknowledge receipt of your confidential letter of November 12th regarding the St. Lawrence Waterways matter.

Your communication will be submitted to Mr. Hepburn when he returns to the city, possibly at the end of this week.

Yours very sincerely,

R. H. ELMHIRST

Right Honourable W. L. MACKENZIE KING,
Prime Minister of Canada,
House of Commons,
Ottawa, Ontario.

Secretary.

No. 31.

*From the Premier of Ontario,
To the Prime Minister of Canada.*

Confidential

TORONTO, November 25, 1937.

DEAR Mr. KING:

Yesterday I consulted with my Cabinet Colleagues on the question of Ontario's position with respect to the proposed St. Lawrence Waterways Scheme, as a result of which I can only reaffirm the position taken by me during the time of the discussion we had on the occasion of your visit to this office.

Having finally arrived at a tentative arrangement with respect to a settlement of our power problems with Quebec companies, I am advised by the Hydro Commissioners and Technicians that Ontario's power requirements have been taken care of for many, many years to come.

We are, therefore, not in need of power nor in my opinion, having in mind our acute railway problem, any additional avenue of transportation.

In my judgment the purchasing power of European and Asiatic countries will collapse with the continued dissipation of gold reserves for armament purposes and this Continent will, as a consequence witness an era of depression comparable to the one through which we have just passed.

I should be very happy to have members of the Hydro Commission and technical officers confer with your officials at any time you so desire.

With kindest personal regard, I remain,

Yours very sincerely,

M. F. HEPBURN

Right Honourable W. L. MACKENZIE KING, P. C.,
Prime Minister of Canada,
Ottawa, Ontario.

No. 32.

*From the Prime Minister of Canada,
To the Premier of Ontario.*

Confidential

OTTAWA, November 26, 1937.

DEAR MR. HEPBURN:

I have received your letter of November the 25th and have noted your observations regarding the St. Lawrence Waterways matter. I believe a discussion by members of the Hydro Commission and technical officers with the appropriate officials here, with respect to some of the matters referred to in our recent correspondence, might serve a useful and mutually helpful purpose. I have accordingly instructed the Acting Under-Secretary of State for External Affairs to arrange for the same at a time that may be most convenient to the officials of both governments.

With kind personal regards,

Yours very sincerely,

W. L. MACKENZIE KING

The Honourable MITCHELL F. HEPBURN,
Premier of the Province of Ontario,
Toronto, Ontario.

No. 33.

*From the Premier of Ontario,
To the Prime Minister of Canada.*

TORONTO, February 14, 1938.

DEAR MR. PRIME MINISTER:

Early in July I instructed the Provincial Secretary to write to Hon. Fernand Rinfret with reference to a proposal to divert the waters of the Kenogami River into Lake Superior. The letter suggested the transmission of the request of the Government of Ontario, through the proper channels, in order to make a proposed diversion into the Great Lakes legal under the Boundary Waters Treaty, and the retention for Canada of the benefits of the diverted water. To this you replied on September the 7th outlining the position of your Government with respect to the matter, and also declining to make any representation to the American Government, voicing, as you did, the opinion that the United States administration would be unwilling to sidetrack the St. Lawrence Treaty for such a project. You state in part:—

“We are not only doubtful of the chance of reaching an agreement with the United States on this particular item alone; we appreciate that an attempt to put it forward separately at the present stage might endanger or weaken our position as regards the other outstanding boundary waterway questions with which it has sig-

nificant practical inter-relationships which are important to both the Dominion and the Province."

Unfortunately for me, your letter addressed to Mr. Nixon arrived during the course of the Provincial general election. It was not until I returned to attend the first Council meeting after the election that your communication was handed to me. I must confess that it came as a distinct shock as the proposed diversion of Long Lac waters was the first step contemplated with respect to further power development in the Niagara District. Later on it was hoped to proceed with the Ogoki diversion, and later still the Hydro Commission had made definite plans for greater utilization of the Welland Canal as a source of water supply for the De Cew Falls development. However, all of this back to Niagara policy was predicated upon receiving the necessary co-operation of your Government in order to assist the Ontario administration in so far as international complications were concerned. In the meantime, the Ontario Hydro Commission had let a contract for the Kenogami diversion, and certain other arrangements had been made by the Department of Lands and Forests.

I might state that this Government is trying to maintain a sound financial position for the Province, to provide gainful employment for men, and to increase the revenues at the same time. May I therefore give you the economic background of this proposed scheme.

It was the intention of the Government to open up what is known as the Long Lac Limits, which hitherto have been inaccessible. No timber operations had been carried on and as a consequence the valuable area was beyond maturity and was actually burning and deteriorating. The diversion of waters southward would provide a system of transportation for logs and pulpwood. The estimated revenue from all sources would be in the neighbourhood of \$400,000 per year. In addition, the Pulpwood Supply Company had agreed to build a pulp plant, starting not later than September, 1939, at a capital expenditure of \$2,500,000, and to employ a large number of men. The agreement effected between the Crown and the company requires the latter to pay a sum equal to \$300,000 towards the cost of the water course, on an amortization plan. In addition to this, the diversion would provide sufficient water to develop 35,000 horsepower, which will be required for the natural development of the district within the next two years, and here I might add that our engineers have informed me that this is our only source from which we can secure the power necessary to supply the increasing demand from that section at a price which will enable further development of the mines of the district, which have only low grade ore available.

Since the attitude of your Government was made known we found it necessary to modify our proposed plans and we are now proceeding with only sufficient works to permit the transportation of pulpwood cut

in the upper part of the Kenogami River watershed to the outlet on Lake Superior. Only sufficient water will be diverted southerly to transport this pulpwood and this for the open season months during which river driving operations are possible. It is regrettable, therefore, that during the remainder of the year no water will be diverted, having in mind the beneficial effects that the increased flow into the Great Lakes would have for navigation, assisting in the elimination of river pollution which today is taking a terrific toll in the fish population, and for the increased flow at Niagara which possibly would to some extent obviate a recurrence of the unfortunate disaster which occurred there a short time ago.

We have also completed our survey of the proposed Ogoki diversion, which would pour an additional 4,000 cubic feet per second into the Great Lakes, would open up great timber areas, and provide again the necessary water for the power requirements of that section of the Province.

While recognizing the right of Ontario to further divert these waters at Niagara, in accordance with the principle accepted in the treaty signed at Washington July 18, 1932, but not ratified, there is no likelihood of this question being pressed for many years to come. By reason of the settlement effected with the Quebec power companies, our engineers advise that our power requirements have been taken care of for many years.

I am hoping that you will reconsider the position of your Government and endeavour, on behalf of the Province of Ontario, to separate the general scheme of the St. Lawrence Waterways from the problem of diverting the waters above Niagara.

With kindest regards, I am,

Yours sincerely,

M. F. HEPBURN

Right Honourable W. L. MACKENZIE KING, P.C.,

Prime Minister of Canada,

Ottawa, Ontario.

No. 34.

From the Prime Minister of Canada,

To the Premier of Ontario.

MY DEAR PREMIER:

OTTAWA, February 22nd, 1938.

I have received your letter of February 14th, 1938, regarding the project to divert the waters of the Kenogami River (via Long Lake) into Lake Superior.

You refer to your Government's request, made through Mr. Nixon in July last, that representations be made to the United States Government looking to the retention for Canada of the benefits of waters so diverted, and you interpret my reply to Mr. Nixon of September 7th, 1937, as a refusal to make such representations.

My letter to Mr. Nixon can bear no such interpretation. The letter expressly showed that it was the result of only a preliminary examination, thus indicating that it was not to be taken as a final reply. It also clearly indicated that its object was to review the main considerations and diplomatic background which had come to the knowledge of the Canadian Government and which appeared to affect the project in question. That the purpose of this review was to facilitate further discussion is plain from the final statement in my letter that the Government would be glad to go into the question further with any representatives who might be named for the purpose.

As regards your allusion to the circumstance that my letter to Mr. Nixon did not come to your attention until your first Council meeting after the provincial general election, I need only say that my letter was sent on September 7th last and was acknowledged on September 9th.

I am unable to understand your statement that my letter came to you as "a distinct shock." The international complications surrounding this problem of arranging to secure for Canada the benefits of such diverted waters were well known to the Government and power authorities of Ontario long ago. The problem was first raised by the Ontario Government in 1925, and discussions followed. It was dealt with in a well known provision of the unratified St. Lawrence Deep Waterway Treaty of 1932, which had been fully discussed with Ontario. In November, 1935, in connection with the Ogoki River diversion project, exactly the same problem was raised by the Ontario Power Commission with the Department of External Affairs, and in February, 1936, the Department replied reviewing the position and pointing out the international complications attending the matter. The fact that the United States Government were strongly emphasizing the desirability of treating as a whole all the particular questions affecting the Great Lakes-Niagara-St. Lawrence system had been made known in my letter to you of January 8, 1937, and had been more fully explained at conferences with representatives of your Government and of the Power Commission held in Ottawa on January 14th and February 24th, 1937.

Your letter, after indicating the benefits of the Kenogami diversion project to the Province, goes on to suggest that because of the attitude of our Government the works under way have had to be partially suspended or cut down. As the works were started before the necessary consent under the Navigable Waters Protection Act had been assured, or the discussions concluded as to the possibility of an arrangement with the United States, it is apparent the responsibility for the situation which has arisen does not rest on the Canadian Government. The Ontario Hydro Electric Power Commission's plans and application, under the Act, for the approval of the proposed dam on the Kenogami River, were sent to the Department of Public Works on July 31, 1937. In the

first part of August the Department's District Engineer inspected the site of the works, and on August 30 the Commission was advised that additional plans, covering the works for the proposed diversion southerly from Long Lake, would be required before the Department could deal with the application. These additional plans were forwarded by the Commission on December 10, 1937, and on January 26, 1938, the Department advised the Commission of the usual conditions, under which the Department would be prepared to recommend the approval of the construction of the proposed dam.

In conclusion you express the hope that the Canadian Government will reconsider the position and, on behalf of Ontario, will endeavour, in the international negotiations, "to separate the general scheme of the St. Lawrence Waterways from the problem of diverting the waters above Niagara." In this connection I have observed public statements intimating that our Government have been trying to impose a general scheme upon Ontario against her will.

None of the correspondence or consultations with Ontario representatives affords any foundation for such suggestions. At no time has the Canadian Government declined to ask the United States Government if they could deal particularly with this problem of retaining for Canada the benefits of waters that might be diverted into the Great Lakes; nor has there been any effort to impose anything upon Ontario. What has been done has been to bring to the attention of the Ontario authorities the position of the United States Government from time to time as it has become known to us; and, in view of the practical importance of all these matters to Ontario, we have invited discussions with your representatives. This we were naturally bound to do, in order to find out what it might be practicable to say in reply. In so doing the Canadian Government was merely making known the position taken by the United States whose co-operation was necessary to the settlement of any international water development. At no time has the Government of Canada itself taken the position that the St. Lawrence Waterway, Niagara and other boundary waters questions must be settled as a whole, or that it was not prepared to deal with the projects for diversions into the Great Lakes separately from the St. Lawrence project.

As shown to the Ontario authorities, from time to time, the situation has been that extensive efforts were made to deal separately with the St. Lawrence and other matters and with Niagara but the two treaties that were negotiated failed to secure the consent of the United States Senate. Later the United States Government suggested that the scenic beauty problem at Niagara should be dealt with, but without any reference to the power problem there; in other words that the power aspect should be postponed. In view of the position taken by Ontario we informed the United States authorities that it would be impracticable to

separate the scenic beauty problem from the general Niagara position. At a later stage there appeared some reason to believe that the United States Government might find it practicable to reconsider their view as regards Niagara if the solution there could become part of a comprehensive plan covering the Great Lakes-Niagara-St. Lawrence system and providing for the solution of all the main problems, not simultaneously, but progressively as and when opportunity or economic considerations touching one part or another, on one side of the line or the other, might permit. In an earlier paragraph I have referred to their strong emphasis upon this, as shown in communications made to you and your representatives in January and February, 1937. Later, in the first week of November, 1937, the United States made a further inquiry which showed that they still held the same strong view as to this kind of solution; and this time, as shown to you in my letter of the following week, dated November 12, 1937, they specifically indicated that they regarded the question of diversions into the Great Lakes as a matter to be dealt with as a part of a general settlement.

On each occasion, so far from attempting to impose anything, I could only, as I did, ask your views in order that I might be in a practical position to make some communication to the United States representative. Upon receiving your replies I naturally made the situation known to them.

I had assumed you realized that, in situations involving several interests, practical solutions can only be reached by agreement of all interests, and that, in making known to you from time to time the position of one of the essential parties in interest, I was only following a simple and necessary procedure familiar to all negotiators when confronted with differing views.

As there had been public misrepresentation of the Government's position, and in order to remove completely any suggestion that our Government were unwilling to take the matter up specifically with the United States Government as requested, a note was sent to that Government in January, requesting that they enter an agreement to the effect that if the proposed diversion were made from the Kenogami River into the Great Lakes, the equivalent of the diverted waters should be exclusively available to Canada for power purposes below the point of diversion (which would mean at Niagara and along the St. Lawrence). The note has been acknowledged, but a definitive reply has not yet been received. I enclose a copy* of the note as sent by our Legation in Washington on January 27th under the instructions of the Government.

Your sincerely,

W. L. MACKENZIE KING

The Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of the Province of Ontario,
Toronto, Ontario.

*Included in the present print at page 15 (No. 8).

PART III
CORRESPONDENCE AND DOCUMENTS RELATING TO
THE EXPORT OF ELECTRICAL POWER

No. 35.

*From Montreal Light, Heat & Power Consolidated,
To the Minister of Trade and Commerce.*

APRIL 17, 1937.

Honourable W. D. EULER,
Minister of Trade and Commerce,
Ottawa, Canada.

DEAR SIR:

Montreal Light, Heat & Power Consolidated has unsold power purchased in anticipation of a continued growth in demand, which was halted by the depression, and now has an exceptional opportunity of disposing, *temporarily*, of 40,000 H.P. of such unsold power to the Aluminum Company of America who will take delivery at the power plant of the Cedars Rapids Manufacturing & Power Company at Cedars, Que. This question has been taken up with the Province of Quebec and an Order in Council has been passed, copy of which is attached hereto, consenting to the exportation to the United States of such surplus subject (amongst other conditions) to the condition that Montreal Light, Heat & Power Consolidated will give the net proceeds of the sale of such power to its customers by way of a reduction in rates.

Montreal Light, Heat & Power Consolidated has power plants of its own at Cedars, Lachine and Chambly and, in addition, has contracted for large quantities of power from Shawinigan Water & Power Company, Montreal Island Power Company and Beauharnois Light, Heat and Power Company. The power resources which this Company has available from the sources above mentioned are considerably in excess of the demands necessary to fulfil the requirements of its customers in Canada, and result in a surplus. The Company respectfully submits that the granting by the Federal Government of an export licence for surplus power to the extent of 40,000 H.P., pursuant to the provisions of the Electricity and Fluid Exportation Act, Chapter 54, R.S. 1927, and the regulations made thereunder, would be in the public interest in that it would enable this Company to dispose of such surplus power temporarily on an advantageous basis and afford an opportunity of giving the net proceeds (estimated at \$340,000 per annum) to the Company's customers in Montreal by way of a reduction in rates; and as the power is "surplus" power, not required in Canada, the granting of the licence for surplus power would not only not be inimical to Canadian interests but would be beneficial thereto.

It is suggested that the export licence for the above-mentioned surplus power be granted to the Cedars Rapids Manufacturing & Power Company doing business at St. Joseph de Soulanges (Cedars) in the County of Soulanges, in the Province of Quebec, this Company being a subsidiary of Montreal Light, Heat & Power Consolidated and already enjoying, under licence No. 376, the right to export electrical energy at a rate not to exceed at any time during the continuance of the licence, 75,000 K.W., as this is the most suitable point of delivering the said surplus to the Aluminum Company of America, a transmission line, with right-of-way for additional circuits as required, being already available.

Yours very truly,

Montreal Light, Heat & Power Consolidated,

G. W. WHATLEY

Secretary.

(The following Order in Council is the enclosure in the immediately preceding letter from Montreal Light, Heat and Power Consolidated to the Minister of Trade and Commerce of April 17th, 1937, No. 35).

(Translation)

COPY OF REPORT by a Committee of the Honourable the Executive Council, under date of April 14, 1937, approved by the Lieutenant-Governor, on the 17th of April, 1937.

RESPECTING the exportation of 40,000 horsepower emanating from the water power at present developed at the Cedars.

The Honourable the Minister of Lands and Forests, in a memorandum dated April the 14th (1937), submits the following:—

Whereas the "Montreal Light, Heat & Power Consolidated" request provincial authorization to export to the United States, during a period of Five years commencing on the 1st of November, 1937, a maximum quantity of 40,000 horsepower of electrical energy, which shall be used at Massena, N.Y., by "The Aluminum Company of America";

Whereas the said company states that the Federal Government is prepared to authorize such exportation, provided the Government of the Province of Quebec permits, in so far as the Province of Quebec is concerned;

Whereas such maximum quantity of 40,000 horsepower shall come from the quantity of electrical energy at present produced at the Cedars, Soulanges County, by a subsidiary company called the "Cedars Rapids Manufacturing and Power Company";

Whereas by virtue of Act 23, George V, Chapter 20, the Government of the Province of Quebec is authorized to permit of the exportation to the United States of 300,000 horsepower of electricity;

Whereas the present Government does not approve of this statute, in its present text, and in so far as the quantity mentioned is concerned;

Whereas besides this quantity of 40,000 horsepower, the Province of Quebec has amply sufficient water powers to meet the needs of the present and to provide for those of the future;

The Minister of Lands and Forests recommends:—

That the company called "Cedars Rapids Manufacturing and Power Company" be authorized, in so far as the Province is concerned, to export to the United States, during a period of Five years beginning on the 1st of November, 1937, a maximum of 40,000 horsepower, which shall be used at Massena, N.Y., by the company called "The Aluminum Company of America" and under the following "sine qua non" and essential conditions:—

- (a) There shall be paid annually to the Provincial Treasury of the Province of Quebec an additional annual tax of Fifty cents per horsepower;
- (b) The company called "Montreal Light, Heat and Power Consolidated" shall, from the beginning of the exportation, grant to consumers of electricity in the City of Montreal, an actual reduction of the rates of electricity equivalent to \$340,000 per annum, which the Minister of Lands and Forests of the Province, whose decision shall be final, shall fix and attribute to the category of consumers designated by him;
- (c) In the execution of all works necessitated by the fact of this exportation, on the territory of the Province of Quebec, 90 per cent of the employees for these works shall be required to reside in the Province of Quebec and, preferably, close to the place where the works are being executed, and shall be chosen in the centres where unemployment is greater;
- (d) The material and machinery required for these works in the Province of Quebec shall, as is reasonably possible, be manufactured and purchased in the Province;
- (e) The salaries, wages and labour conditions shall be fixed by the Minister of Labour of the Province, whose decision shall be final;
- (f) It is specifically understood that this maximum quantity of 40,000 horsepower, or any portion of it, shall not be allowed to be ceded, alienated, loaned, given or sold by the "Aluminum Company of America," to any other corporation, company, society, person or individual, without the express authorization of the Government of the Province of Quebec;

- (g) It is understood that this maximum quantity of 40,000 horsepower shall not be allowed to be used either to compete with existing industries, or with those which might be established in the future, in the Province.

In consequence whereof, subject to the integral execution of all the conditions above mentioned, the Minister of Lands and Forests recommends, in the interest of the Province, and particularly in the interest of the City of Montreal, that the licence to export a maximum of 40,000 horsepower be granted, in so far as the Province is concerned, to the said subsidiary company called "Cedars Rapids Manufacturing and Power Company," for the period and in accordance with all the terms above mentioned.

Certified.

(Sgd.) A. MORISSET

Clerk of the Executive Council.

(Seal)

No. 36.

*From The Cedars Rapids Manufacturing and Power Company, Montreal,
To the Department of Trade and Commerce.*

ELECTRICITY EXPORTATION

APPLICATION

FROM

**THE CEDARS RAPIDS MANUFACTURING & POWER COMPANY
TO EXPORT ELECTRICAL ENERGY**

For the Fiscal Year ending March 31, 1938

**APPLICATION FOR A LICENCE TO EXPORT ELECTRICAL
ENERGY**

**Under the Provisions of the Electricity and Fluid Exportation Act,
Chapter 54, R.S., 1927**

TO THE DEPARTMENT OF TRADE AND COMMERCE, OTTAWA

Application is hereby made in favour of The Cedars Rapids Manufacturing & Power Co. doing business at St. Joseph de Soulanges (Cedars) in the County of Soulanges, province of Quebec, for a supplementary licence to export electrical energy under the Provisions of the above Act.

The plant or plants supplying the power to be exported are located at Cedars, P.Q., and have a total generating capacity of 145,000 kilowatts.

The transmission lines used for the exportation of power cross the boundary at Mille Roches, Ont., Canada.

The rate of exportation of energy for which licence is requested will not exceed 30,000 kilowatts.

Sufficient power will be available at all times for use in Canada to meet all applications for the same from the above named plants.

Particulars as to the terms and rates of existing contracts and agreements for the exportation of power are attached hereto and form part of this application.

- (1) 75,000 HP at \$15 per HP Term 85 years.
- (2) 41,555 HP at \$15 per HP Term 3 years.
- (3) 40,000 HP at \$17 per HP Term 5 years.

(Exported portion of items 1 and 2 combined do not exceed 75,000 kilowatts.)

The licence fee amounting to \$50.00 in accordance with Section 3 of the Regulations is enclosed herewith.

The Cedars Rapids Manufacturing & Power Co'y

(Sgd.) J. S. Norris, President.

(Sgd.) G. R. Whatley, Sec.

Applicant.

Dated at Montreal, P.Q., this 16th day of April 1937.

Province of Quebec, County of Hochelaga. To wit:	}	In the matter of a licence to export electrical energy by the:— The Cedars Rapids Manufacturing & Power Company.
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I, H. Milliken, of the Cedars Rapids Mfg. & Power Co., of Montreal, occupation, Chief Engineer & General Superintendent, Electrical Department, do Solemly Declare:—

1. That I am the Chief Engineer & General Superintendent, Electrical Department, of the above named Company.

2. That I am conversant with the matter herein declared to.

3. That the within Application bearing the signature of J. S. Norris, President, G. R. Whatley, Secretary, and dated the 16th day of April, 1937, is true and correct to the best of my knowledge and belief.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

Declared before me at Montreal, P.Q., this 16th day of April, 1937,	} (Sgd.) H. Milliken
(Sgd.) G. R. Whatley, Commissioner or J.P.	

No. 37.

*From Montreal Light, Heat and Power Consolidated,
To the Minister of Trade and Commerce.*

MONTREAL, May 3, 1937.

Honourable W. D. EULER,
Minister of Trade and Commerce,
Ottawa, Ont.

DEAR SIR,—

Montreal Light, Heat and Power Consolidated submitted to you under date of April 17 last, an application for an export licence in respect to 30,000 kilowatts (40,000 H.P.) to the Aluminum Company of America, and accompanied this application with a certified copy of an Order in Council, dated April 17, 1937, passed by the Government of the Province of Quebec consenting to said export.

We understand that the policy which the present Government has been following in respect to export licences is in accordance with a resolution proposed by Mr. R. V. LeSueur (M.P. for West Lambton) on June 15, 1925, which was modified in the course of the debate at the suggestion of the present Prime Minister (Rt. Hon. W. L. Mackenzie King) to read as follows:

“That the export of hydro-electric power from Canada should be permitted only on yearly licence, and that hereafter no licence for export of power beyond that already granted should be issued except with the concurrence of the province or provinces in which it is proposed to develop such power.”

Unfortunately, the formal application did not reach Ottawa until shortly before the departure for the Coronation of a large number of

the Members of the present Federal Cabinet, and no positive action has yet been taken in respect thereto.

Montreal Light, Heat and Power Consolidated, in collaboration with the present Government at Quebec, was endeavouring to find a ready means of reducing electricity rates in the City of Montreal. The temporary export of power to the Aluminum Company of America, as suggested, seemed to present a favourable opportunity of effecting such reduction inasmuch as the company agreed with the Government of Quebec to pass on to its customers the net proceeds of this export sale (as indicated in the Quebec Order in Council dated April 17, 1937, already submitted to you).

We feel it incumbent upon us to draw your attention to the fact that an early decision of the matter is very important if the opportunity to make this sale and effect a reduction in rates is not to be lost, and in this connection the Aluminum Company of America advise that they will have to make other arrangements shortly if we cannot accommodate them on this occasion.

We sincerely trust that a means may be found of dealing with the matter expeditiously, without awaiting the return of the Prime Minister to Canada.

Yours faithfully,

MONTREAL LIGHT, HEAT & POWER CONSOLIDATED.

G. W. WHATLEY

Secretary.

No. 38.

*From Montreal Light, Heat and Power Consolidated,
To the Prime Minister of Canada.*

MONTREAL, August 10, 1937.

Rt. Hon. W. L. MACKENZIE KING,
Prime Minister,
Ottawa, Canada.

Re: *Application for Export Licence—Cedars Rapids
Manufacturing & Power Company.*

DEAR SIR:

On April 17 we wrote to the Hon. W. D. Euler, Minister of Trade and Commerce, enclosing an application from our subsidiary, Cedars Rapids Manufacturing & Power Company, for a licence to export 40,000 horsepower to the United States, solely for use by the Aluminum Company of America at Massena, N.Y.

With the application there was submitted a certified copy of an Order in Council, dated April 17, 1937, passed by the Quebec Government consenting to the exportation of the 40,000 horsepower in question subject to the conditions enumerated therein—copy herewith.*

We have a surplus of electrical energy which cannot be sold in Canada. This surplus arises because the incidence of the depression halted the normal growth in power demand for which provision had been made.

The Aluminum Company of America, which operates a plant at Massena, N.Y., and utilizes as its source of electrical energy power generated at Massena, N.Y., as well as power supplied from Cedars Rapids Manufacturing & Power Company, approached us with a view to purchasing, for a limited period, some of this surplus power.

You will observe that one of the conditions of the consent given by the Province of Quebec was that we would, from the date of commencement of such exportation, give to our electricity customers in the Montreal area a reduction in rates equivalent to the net proceeds of such sale, estimated at \$340,000 annually.

The proposition is a matter of business in that it affords an excellent opportunity of disposing, temporarily, of some surplus power and bringing into the Dominion of Canada a substantial amount of money which would otherwise be lost.

The granting of the export licence requested will bring to the Federal Government approximately \$75,000 per annum, by reason of the export tax, to the Quebec Government a very substantial increase in revenue, and to the electricity customers in the Montreal area the amount indicated.

Our application has now been pending for four months and although we realize that events of great importance have recently engaged the attention of yourself and your colleagues at home and abroad, the necessity for an early decision has from the practical point of view become so urgent and so pressing that we have presumed to write you to bespeak your good offices toward early and favourable consideration of the matter by your Government; in other words, we are fearful of losing the opportunity of this sale and consequently would appreciate an early decision.

Yours very truly,

MONTREAL LIGHT, HEAT & POWER CONSOLIDATED,

J. S. NORRIS

President.

* Translation included in the present print at page 58.

No. 39.

*From the Prime Minister of Canada,
To Montreal Light, Heat and Power Consolidated.*

OTTAWA, August 14, 1937.

J. S. NORRIS, Esq.,
President,

Montreal Light, Heat and Power Consolidated,
Montreal, Quebec.

Dear Mr. NORRIS:

I wish to acknowledge your letter of August the 10th, just received, with reference to the application of the Cedars Rapids Manufacturing and Power Company, a subsidiary of the Montreal Light, Heat and Power Company, for a licence to export 40,000 horsepower to the United States, for sole use by the Aluminum Company of America, at Massena, New York.

The representations of your letter have received the most careful consideration of my colleagues and myself. I regret, however, that the government is not in a position to grant the licence, at the present time. In view of the broad question of policy involved, and the fact that the export of power to the United States has been debated at length in Parliament on several occasions, the government is of the opinion that an opportunity should be afforded at the approaching session for a discussion on the subject, before any final action is taken with respect to the application of the Cedars Rapids Manufacturing and Power Company.

Yours sincerely,

W. L. MACKENZIE KING

No. 40.

NOTE.—The following letter from the Acting Under-Secretary of State for External Affairs to the President of Aluminium Limited of Montreal was sent with reference to an interview between the latter and the Prime Minister of Canada held on November 2, 1937.

OTTAWA, 12th November, 1937.

DEAR MR. POWELL,

May I refer to your interview last week with regard to the question of the application of the Cedars Rapids Manufacturing and Power Company, a subsidiary of the Montreal Light Heat and Power Company, for a licence to export 40,000 horsepower to the United States for the sole use of the Aluminum Company of America at Massena, New York. During that interview you and Mr. Geoffrion discussed the relationship between the question of granting the export licence and the

position of your company, Aluminium Limited, and its subsidiaries, especially with regard to the use of waste power developed on the Saguenay and the problem of the export markets.

The representations with regard to this matter have received the most careful consideration by the Prime Minister and his colleagues. It is a matter of regret, however, that the Government is not in a position to grant the licence at the present time. In view of the broad questions of policy involved and of the fact that export of power to the United States has been debated at length in Parliament on several occasions, the Government is of the opinion that an opportunity should be afforded at the approaching session for a discussion on this subject before any final action is taken with regard to the application for the export licence in question.

Accordingly I have been instructed to communicate this conclusion to you for your information.

Yours sincerely,

J. E. READ

Acting Under-Secretary of State
for External Affairs.

R. E. POWELL, Esquire,
President,
Aluminium Limited,
Montreal, P.Q.

No. 41.

*From The Cedars Rapids Manufacturing and Power Company, Montreal,
To the Minister of Trade and Commerce.*

MONTREAL, November 20, 1937.

The Honourable W. D. EULER,
Minister of Trade and Commerce,
Parliament Buildings,
Ottawa.

DEAR SIR,—

The Cedars Rapids Manufacturing & Power Company now begs leave to withdraw the application made by it on the 17th day of April, 1937, for a licence to export 40,000 horse-power to the United States for the use of the Aluminum Company of America at Massena, New York.

We shall be glad if you will acknowledge receipt of this communication and advise us that due note has been taken of this application.

Yours very truly,

THE CEDARS RAPIDS MANUFACTURING & POWER CO.

C. C. PARKES
Assistant Secretary.

No. 42.

*From the Deputy Minister of Trade and Commerce,
To The Cedars Rapids Manufacturing and Power Company, Montreal.*

November 24, 1937.

DEAR SIR,—

I am directed by the Hon. W. D. Euler, Minister of this Department, to acknowledge receipt of your letter of November 20, in which you state that the Cedars Rapids Manufacturing & Power Company wish to withdraw the application they made on April 17 for a licence to export 40,000 horse-power to the United States for the use of the Aluminum Company of America at Massena, New York.

Yours very truly,

J. G. PARMELEE

Deputy Minister.

Mr. C. C. PARKES,

Assistant Secretary,

The Cedars Rapids Manufacturing & Power Co.,

P.O. Box 1710,

Montreal, Que.

No. 43.

NOTE

On November 21, 1937, the following letter and its enclosures from the Chairman of the Hydro-Electric Power Commission of Ontario to the Premier of Ontario were communicated by the latter by hand to a member of the Canadian Government as the basis of a request for the issue of a licence to export power. (A formal application by the Premier of Ontario, on behalf of the Ontario Hydro-Electric Power Commission, to the Minister of Trade and Commerce, dated January 21, 1938, is set forth hereunder immediately after this document.)

Honourable M. F. Hepburn,

Premier of Ontario,

Parliament Buildings,

Toronto, Ontario.

November 20, 1937.

DEAR SIR,—In accordance with our understanding, this memorandum sets forth some of the salient points in connection with the export of power into the United States.

Statutes

Export of power from Canada is governed by a Dominion Statute, the Electricity and Fluid Exportation Act, revised Statutes of Canada

1927, chapter 54. By this statute no person shall export any power without a licence or any power in excess of the quantity permitted by such licence. The Governor in Council may grant licences for export of power upon such conditions as he thinks proper where a right to export exists by lawful authority. Such licence shall be revocable upon such notice as the Governor in Council deems reasonable. These licences are subject to regulations which the Governor in Council by another section is authorized to make. Subject to such regulations, the Governor in Council may grant licences for construction of transmission lines for export of power. Penalties are imposed for export contrary to this Act. There has been no amendment to this Act since 1927.

Existing Export Licences

There is attached a table* showing the companies which have export licences permitting them to export power from the Province of Ontario into the United States. Unfortunately complete information respecting all of them was not available. These export licences are issued by the Department of Trade and Commerce and renewed from year to year. They provide for exceeding the licensed amount by 25% for short periods of time.

All export licences specify in very exact terms the point at which the power provided for therein shall be exported, and admit of no substitution by the licensee. Two such licences have been granted to the Commission, specifying delivery at Niagara Falls; No. 368 for firm power and No. 369 for surplus power. During the years 1928 to 1936 inclusive, the Commission was allowed to exceed its surplus export power licences by 100%, but this feature was recently withdrawn by the Department and no move has been made by the Commission to have it reinstated.

Limitations Imposed by the Province of Quebec

The Commission's contracts for power with the Quebec power companies contain restrictions concerning the export of power from Ontario which differ slightly one from the other but which in the main prohibit the Commission from directly or indirectly exporting power received under these contracts. The intent of these restrictions was to permit the continued export of power in such amounts as had been the practice when the contracts were entered into, but not to permit the amounts of export to be in any way increased by reason of having available larger reserves through the purchase of Quebec power.

In granting water-power leases for the development of power within the Province of Quebec, the government of the province imposed a strict condition forbidding export outside of Canada. Nevertheless the Province of Quebec has recognized export by the Commission as set out in the foregoing.

* Included in the present print at page 70.

In order that you may be fully acquainted with the background of discussion and debate on the general question of export policy, I have prepared an attachment entitled "Export of Power"* which deals with this phase of the matter, and I think it would be advisable to read this carefully before getting in touch with the Ottawa authorities.

I would suggest that an effort be made to secure immediately a new licence, in standard form, permitting the export of 120,000 horse-power at Cornwall.

Yours very truly,

T. H. HOGG

Chairman.

*COMPANIES EXPORTING POWER FROM THE PROVINCE OF ONTARIO
INTO THE UNITED STATES*

Company	Firm or Surplus	Quantity Licensed in Kilowatts	Point of Export
Cedar Rapids Transmission Company.....	Firm	.....	Cornwall
Canadian Niagara Power Company.....	Surplus	45,000	Niagara Falls
	Surplus	20,000	Niagara Falls
Hydro-Electric Power Commission of Ontario...	Firm	45,000	Niagara Falls
	Surplus	80,000	Niagara Falls
Ontario and Minnesota Power Company.....	Firm	.....	Fort Frances

NOTE.—There appear to have been some eight other export licences in effect in 1935.

EXPORT OF POWER

Public policy in respect to exportation of Hydro-Electric energy

The Dominion Legislation affecting the exportation of Hydro-Electric energy is embraced in the Fluid Exportation Act, 1927. This is a Dominion of Canada Statute which provides the condition under which fluids, such as gas and electricity, may be exported to the United States. The portion of the Act relating to electrical energy provides for the granting of yearly licences under which electrical energy may be exported and the practice to date has been to renew existing licences in the same terms year after year. There have been no new licences of any importance granted at Ottawa during the last ten years. This question has, however, been the subject of debates in the House of Commons from time to time and particularly during the period 1925 to 1930. The most significant declaration of public policy occurred in the year 1925 after extended debates which started in February of that year at the instance of Mr. H. H. Stewart (Leeds,

* Included in the present print hereunder.

Cons.) and later in the month of May in connection with the proposed Carillon development. The 1925 debates culminated by the introduction of a resolution by Mr. R. V. LeSueur (West Lambton), who introduced the following resolution:—

“That in the opinion of this House export of Hydro-Electric power from Canada be permitted on yearly licence and no licence should be issued beyond those at present outstanding except for ‘off peak’ power.”

After a lengthy debate in which the then Prime Minister, Right Honourable W. L. Mackenzie King participated, Mr. LeSueur’s resolution was changed by the suggestion of Mr. King to read as follows:—

“That the export of hydro-electric power from Canada should be permitted only on yearly licence, and that hereafter no licence for export of power beyond that already granted should be issued except with the concurrence of the province or provinces in which it is proposed to develop such power.”

This resolution was finally adopted with the unanimous approval of the House. There were scattered references in the debates of 1926 and 1927 to the question of the exportation of power but nothing significant occurred in these years. In 1927 and 1928 Mr. H. H. Stewart of Leeds introduced Bill No. 2, entitled, “Bill to Regulate Exportation of Electric Power,” the gist of which was to take away from the Governor in Council the right to grant yearly licences and to provide that no licences for the exportation of electric energy should be granted except with the express approval of parliament. This Bill passed the House of Commons but was defeated in the Senate.

The next significant debate on the question of exportation of power occurred in 1929 in connection with the St. Lawrence Deep Waterway Development, in the course of which the Right Hon. W. L. Mackenzie King explained to the House of Commons at some length, that in the course of negotiations which had taken place between Canada and the United States in reference to the St. Lawrence Development, that Canada would not consider any arrangement in connection with such development which involved either the permanent or temporary exportation to the United States of any of Canada’s share of the potential water powers on the St. Lawrence River which would result from the St. Lawrence Deep Waterway Development.

There have been no extended debates on the question since 1929 and no further declaration of Government Policy in that regard.

It might appear from the debates of 1929 that the principles outlined in the 1925 resolution that the basic policy laid down in the 1925 resolution had been somewhat changed, but a moment’s consideration will demonstrate that this is not true. In 1929 Mr. Mackenzie King was endeavouring to meet a possible criticism in connection with certain proposals which had been made that the United

States would be willing to pay the whole cost of the canalization of the St. Lawrence River, provided some arrangement might be made whereby the United States would have the benefit of the power resources on the Canadian side until such time as Canada's power needs were of sufficient magnitude to absorb such power. The fear in Canada was that if an arrangement of this kind were consummated and large blocks of Canadian power from the St. Lawrence were utilized in the United States over any extended period, that international complications would arise if Canada ever attempted to recover the power.

Economics: Exportation of Hydro-Electric Energy

The basic difference between central Canada and central United States in respect to power resources is that in Canada the power resources are wholly water power, whereas in Central United States the power resources are derived from both water powers and coal, and it should be noted in central United States about 75 per cent of the power actually used is now derived from the combustion of coal.

The improvements which have been made in the combustion of coal during the last ten or fifteen years have been very marked and the difference between the cost of producing electrical energy from coal vs. water powers by virtue of the large coal resources which exist in central United States is very much less than was formerly the case. It follows that under present conditions it would not cause any great inconvenience to the United States to change its source of electrical energy from Hydro-Electric power exported from Canada to power produced from coal obtained in the United States. A modern steam plant of substantial capacity could easily be constructed within a year.

Under present conditions it is particularly advantageous to have inter-connections between large Hydro-Electric power developments and transmission systems whose chief source of electrical energy is from the combustion of coal so that as great a proportion of the total electrical energy as possible available in the water power resources may be utilized, because if the energy in water power is not utilized it is lost. It would be particularly advantageous to have such inter-connections between central Canada and central United States, because in central United States the largest proportion of the electrical energy utilized is obtained from coal and an excellent opportunity is afforded of disposing of surplus electrical energy derived from water power in Canada without in any way impairing the availability of Canadian developments to meet fully the power requirements in Canada.

No. 44

*From the Premier of Ontario,
To the Minister of Trade and Commerce.*

TORONTO, January 21, 1938.

Honourable W. D. EULER, M.P.,
Minister of Trade and Commerce,
Ottawa, Ontario.

DEAR SIR:—

*Application for Licence to Export
to the United States 90,000 Kw. of
Surplus Interruptible Electrical Power*

On behalf of the Hydro-Electric Power Commission of Ontario, I desire to make formal application for a licence to export to the United States 90,000 kilowatts of surplus electrical power. This application is made pursuant to the Electricity and Fluid Exportation Act, Revised Statutes of Canada 1927, Chapter 54, and is in addition to the licences for 45,000 kilowatts and 80,000 kilowatts already issued to the Commission.

While it is probable that the point of export will be in the neighbourhood of Cornwall, the Commission wishes to preserve the right to export at any point at which physical facilities are available, on the understanding, of course, that proper returns for all power exported would be made.

The provisions for future load growth made in the original power contracts with companies in the Province of Quebec afford an example of over-estimating of future requirements which is now notorious. The burden imposed by these contracts upon the Commission's finances actually became so severe as to make substantial relief absolutely necessary, leading, eventually, to the cancellation of the contracts and the writing of revised contracts with three of the companies concerned, under terms which enabled the Commission to take deliveries in amounts which suited its requirements.

Until recently, no agreement was concluded with the fourth company, namely, the Beauharnois Light, Heat and Power Company; that Company, sued the Commission, in the Supreme Court of Ontario, and obtained a judgment for a very large sum of money, which judgment was affirmed by the Court of Appeal of Ontario. This fact, taken in conjunction with an increase in the demand for power and the consequent necessity for making adequate provisions for substantial future

power supplies and the knowledge that the diversion of water into the Great Lakes for further Niagara development and allied schemes were tied in with the problems of St. Lawrence seaway, has impelled the Commission to make a settlement with Beauharnois, which, in turn, has involved a revision of the agreements made with other Quebec companies.

Under the settlement, litigation with which the original agreements were surrounded will terminate. Prior to the readjustment the Commission was faced with the necessity of an appeal to the Privy Council against a decision of the Supreme Court of Ontario requiring payments of \$609,643.37 to the Beauharnois Company, which represented three months' power bills under that Company's original contract. If the Commission were unsuccessful in its appeal, however, it actually faced payments for all power under the original Beauharnois agreement refused since cancellation, amounting as of February 1, 1938, to \$7,573,000.

Not only so, but the other three companies with which temporary settlements had been achieved would be in a position to sue under their original agreements, with the Beauharnois judgment as a precedent. Under such circumstances the Commission would have been required as of February 1, 1938, to pay over and above what has been paid under the various revised agreements, a total, including payments to Beauharnois of \$15,892,000. A further effect would be that the Commission would be required to pay in the future until the termination of the old contracts for the full quantities as originally provided, at \$15.00 per horsepower.

Under the revised agreements, the aggregate delivery is reduced from 791,000 to 766,000 horsepower, and the payment required to \$12.50 per horsepower. Including the settlement achieved with the Ottawa Valley Company early in 1937, and taking into account payments under temporary arrangements since cancellation, the Commission's actual saving under the new set-up, calculated to the end of the original agreements will amount to \$92,658,084.80.

While this saving is a large one, it is an aggregate figure and not at all indicative of the more immediate advantages of the readjustment. More important than the reduction of the quantities to be taken is that deliveries of the various blocks of power are projected further into the future. Under the original contracts the Commission would now be accepting 791,000 horsepower. The new agreements make a comparison as follows:—

	<i>Original agreements</i>	<i>New Agreements</i>
1938.....	791,000 h.p.	566,000 h.p.
1939.....	"	626,000 h.p.
1940.....	"	646,000 h.p.
1941.....	"	696,000 h.p.
1942.....	"	721,000 h.p.
1943.....	"	746,000 h.p.
1944.....	"	766,000 h.p.

By the time the full deliveries are made in 1944 the demands of the Niagara system will probably have increased very considerably.

There will be, of course, within the next few years a surplus of power over and above that required to supplement the system's resources and supply demand. The necessity for this surplus is obvious. Some reserves must be maintained as an insurance against possible breakdown of equipment or failure to generate. Not only so, but some provision is required against rapid expansion and increasing demand.

Under the temporary settlement achieved with the Gatineau, Mac-laren-Quebec and Ottawa Valley companies the system, due to increases in demand of approximately 11 per cent during 1937, and on the basis of continued increases at that rate would have faced the peak months of 1938 with barely enough to meet absolute requirements, and nothing whatever in reserve for 1939, 1940 and the more distant future. The reserve of power which the new contracts provide is accordingly required and justified on a business basis.

It is, however, the policy of all large electric power systems to re-sell under contracts which permit its immediate withdrawal, power not immediately required for system demands, as a means of reducing the cost of reserve. With this in mind, the Commission has under consideration at the moment proposals for the sale of between 90,000 and 110,000 horsepower to organizations within the United States under interruptible agreements, estimated to bring an annual revenue of \$1,500,000.

There can be no advantage to the Dominion Government in refusing to permit the export of an asset which if not immediately used merely wastes and is lost forever. There is no depletion of our national resources involved in the export of power, as occurs annually in the export of tremendous quantities of raw materials.

The readjustment of contracts with Quebec brings to a satisfactory conclusion a controversy of long standing. Deficits of \$12,500,000 suffered within four years bear witness to the disregard of the principles of sound business involved in the original agreements, and the necessity for action. From the point of view of all parties including the province of Quebec the new arrangement is sound and satisfactory.

There can, however, be no permanent satisfaction in an arrangement which penalizes one province to the advantage of another. There are 2,000,000 people located in the Niagara system vitally interested in the Quebec settlement, who pay its cost in their electric bills and depend upon the supply of cheap power to our industries for continued employment. These 2,000,000 citizens will await with interest the intimation as to whether or not they are to be deprived by their Dominion Govern-

ment of \$1,500,000 annually from the sale of power accepted by their commission and paid for in their bills.

This settlement, which brings to an amicable conclusion the unfortunate long-standing dispute with the Quebec power companies, is distinctly to the advantage of the provinces of Ontario and Quebec and of incidental advantage to the Dominion of Canada.

If, instead of settling this dispute, the Commission had carried its Beauharnois appeal to the Privy Council and lost, it is possible that all the companies concerned might have succeeded in re-opening their claims and in establishing the right to be paid in accordance with the terms of the original contracts. Under these conditions the additional payments due under the terms of the original contracts over and above the payments called for under the revised contracts are as set out in the undernoted table:—

	As at February 1, 1938.	As at the Expiration date of the original contracts
Gatineau Power 25 cycles.....	\$3,615,000	\$17,982,000
Gatineau Power 60 cycles.....	179,000	2,328,000
Maclaren-Quebec.	2,416,000	27,114,000
Ottawa Valley.....	2,109,000	10,189,000
Beauharnois.	7,573,000	35,044,000
Totals.	<u>\$15,892,000</u>	<u>\$92,657,000</u>

As a consequence of the settlement, the Commission now has available and is likely to have available for several years to come, a quantity of power in excess of its primary demands. It also has a market for power in the United States at an attractive price. The quantity which it is desired to export has not been definitely fixed but the amount now under consideration is between 90,000 and 110,000 horsepower. As the revenue from the export of the larger quantity of power would be in the order of \$1,500,000 per year and as this revenue, by relieving the municipalities of the Niagara System of the burden of the excess power which the Commission has been obliged to accept, would be of great benefit to them, and, in addition, would have a favourable effect on Canada's trade balance with the United States, I believe you will agree that there are very cogent reasons for issuing an export licence as requested herein.

Objections to the export of power appear to be based on the under-noted propositions:—

1. That the exportation of power results in the establishment in the United States of dependent communities or industries.
2. That irrespective of the terms of the agreement under which export delivery is made, the commitments become irrevocable; that is, the deliveries cannot be suspended or terminated at

any later date without giving rise to international complications and being regarded as an unfriendly act.

3. That the export of power enables industries, which otherwise would establish themselves or branches thereof in Canada, to handle their Canadian business from factories located in the United States.

It is the opinion of the Commission that insofar as the power to be delivered under this application is concerned, the foregoing objections are entirely inapplicable.

There is no risk of American industries and American communities along the border of Ontario becoming dependent upon Canadian power; large American power interests with extensive water power and practically unlimited fuel resources stand ready to supply American demands. The question is not whether a certain American industry or territory shall be supplied with Canadian power or, alternatively, shall do without power, it is rather a question of whether certain American power demands shall be temporarily supplied from Canada's water power, which otherwise would waste, or from American coal. Canadian power is wanted only because it can be made available at an attractive price. In this case it would be recallable in accordance with the terms of sale without the slightest protest from anyone. It is a matter of record that the Commission has already interrupted its export deliveries on occasions too numerous to mention.

The exportation of raw materials, which is permitted in large quantities, affords an interesting and illuminating comparison with electric power. In this connection it is important to note that, in general, raw materials are assets which diminish with use whereas electricity produced from water power is a continuing asset which does not diminish with use, in fact it simply wastes if not used. Again, the availability of raw materials exercises an important influence upon the location of industries. Surely there can be no argument for prohibiting the export of hydraulic power which does not apply with equal or greater force to the export of raw materials and no argument for permitting the export of raw materials which is not at least equally applicable to the export of electricity produced from water power.

In connection with the contention that the export of power will interfere with the establishment of American industries in Canada, I would point out that the comparatively small quantity of power which is under consideration would have no noticeable effect upon the cost of power supplied by the large power corporations in the United States, nor would it have the slightest effect upon the location of the one and only industry which is directly concerned as that industry already has a large branch in Canada. Unless the saving in the cost of power were very marked and unless power cost had an unusually great influence on overall manufacturing costs, it would not ordinarily exercise as great

an influence on the location of an industry as other factors such as tariffs and the cost of raw materials.

An incidental feature of the granting of this licence would be the establishment of physical means in Eastern Ontario of interchanging power with a very large American Power Company. Interconnections such as these are rapidly being established on a large scale all over the United States and Canada. They are of permanent advantage to both parties as a means of obtaining assistance in emergencies, such assistance being given to whatever extent may be practicable, but without obligation. Interconnections also make possible the exchange of seasonal power and purely at-will power which is instantly recallable, and, in general, they make for economy and efficiency. In the Commission's case, after the termination of the agreements under consideration, it would no doubt be possible and certainly advantageous to continue, under an appropriate licence, to export small quantities of power on a purely at-will and instantly-recallable basis during such seasons and times as it might otherwise be unsaleable.

Considering the circumstances under which the Commission has accepted from the Quebec power companies a supply of power which is temporarily in excess of its requirements, and the accompanying inter-provincial and federal advantages of the transaction; considering also that this excess supply will very largely waste if not used, the burden which it will impose upon Ontario municipalities if it is allowed to waste, the fact that if exported it can be recalled in accordance with the terms of sale without risk of protest, and the benefit which the municipalities of Ontario would derive from the sale of export power to the United States, the Commission feels amply justified in applying for a licence to export 90,000 kilowatts and trusts that your Government will see its way clear to issue the desired licence as soon as possible.

For convenient reference, certain material bearing on the question of export has been assembled under various headings in an addendum.*

I have made a copy of this letter for Mr. J. L. Stiver, Director, Electricity and Gas Standards Laboratory, in the expectation that he will forward the form of application to be filled in in the usual way.

Yours very truly,

M. F. HEPBURN

*This addendum follows immediately hereinafter.

ADDENDUM

(Enclosure in immediately preceding letter from the Premier of Ontario to the Minister of Trade and Commerce of January 21, 1938, No. 44).

To accompany a letter dated January 21st to Honourable W. D. Euler, Minister of Trade and Commerce, Ottawa, applying for a licence to export 90,000 kilowatts of electrical power to the United States.

Origin and Classes of Power Available for Short-Term Sale.

In the ordinary course of events, almost any large power system will have available from time to time power resources which may be sold to advantage on a short-term basis, an interruptible basis, or a strictly at-will basis. These resources arise from such circumstances as:

1. The necessity of making power commitments a number of years in advance of expected requirements; for instance, in making large power developments such as the development at Queenston, it is usually the case that the blocks of power which become available in the natural course of an economical construction program exceed the requirements at the particular time when they become available, thus temporarily providing the system with excess resources which may be used for temporary sale.
2. The impossibility of accurately estimating future power requirements. Any capacity provided to meet an expected load growth which does not materialize is likewise available for short-term sales.
3. The well-recognized fact that power reserves must be provided to take care of losses in capacity due to contingencies of various kinds. These reserves are available for sale on a basis which enables the power to be recovered at *any instant* to meet contingencies as they may arise.
4. Seasonal variations in demand. These variations make possible the sale of certain quantities of power during the seasons when the primary demand is not at its heaviest.

It has been the policy of the Commission to sell any electrical energy which could be derived from resources in excess of primary power demands, for the highest price that it would bring. Substantial quantities of reserve power and seasonal power have been sold as "surplus export" to the United States and during the depression considerable quantities were sold in Canada for electric steam generation. Since then, small quantities of seasonal power for electric steam generation have been sold each year up to the present. These various sales have materially augmented the Commission's revenue.

Previous Export by the Hydro-Electric Power Commission of Ontario.

In 1917 the Commission acquired the Ontario Power Company at Niagara Falls. This Company had a long-term-contract with the Niagara, Lockport and Ontario Power Company for the export of 45,000 kilowatts of firm power to the United States. By subsequent agreement this contract was made to terminate in 1950.

On December 1, 1920, the Commission acquired the Electrical Development Company and the Toronto Power Company. The first mentioned Company had a firm power contract with the Buffalo General Electric Company for the export of 12,000 kilowatts to the United States, which expired in October 1925. It was followed by an arrangement for the sale of 20,000 horsepower on an at-will basis which terminated at the end of October 1926. This power was exported under the Electrical Development Company's licence to export 35,000 kilowatts.

Again in 1923 the Commission entered into an arrangement with the Union Carbide Company for the delivery of some 20,000 horsepower in the United States on a strictly at-will basis for a period of fourteen months.

In 1926 the Commission came to an agreement with the Canadian Niagara Power Company fixing the price of such surplus power as might be exported with the concurrence of both parties. There was no obligation on either side to either deliver or accept any quantity of power. Both parties were at liberty to terminate the transaction or to limit it to such amounts as from time to time might suit their mutual convenience.

Particulars of the licences under which the Commission has exported power are assembled in a table entitled "Export Licences 1917 to 1937".

Although for a number of years prior to 1927 firm export licences were issued in the amount of 80,000 horsepower, it is probably correct to say that, with the exception of the 45,000 kilowatt firm power contract with the Niagara, Lockport and Ontario Power Company and the 12,000 kilowatt contract with the Buffalo General Electric Company, all power exported has been in the nature of surplus power.

EXPORT LICENCES—1917 TO 1937

Licence year ending March 31	"Firm Power" Licence			"Surplus Interruptible" Licence			
	No.	Amount in K.W.	Licensee	No.	Amount in K.W.	Licensee	Leeway
1918	.....	45,000	Ontario Power Co. ....	.....	.....	.....	.....
1919	.....	45,000	Ontario Power Co. ....	.....	.....	.....	.....
1920	103	45,000	Ontario Power Co. ....	.....	.....	.....	.....
1921	115	40,000	Ontario Power Co. ....	.....	.....	.....	.....
1921	117	15,000	Elec. Development Co. ....	.....	.....	.....	.....
1922	119	45,000	Ontario Power Co. ....	.....	.....	.....	.....
1922	121	35,000	Elec. Development Co. ....	.....	.....	.....	.....
1923	131	45,000	Ontario Power Co. ....	.....	.....	.....	.....
1923	133	35,000	Elec. Development Co. ....	.....	.....	.....	.....
1924	154	45,000	Ontario Power Co. ....	.....	.....	.....	.....
1924	153	35,000	Elec. Development Co. ....	.....	.....	.....	.....
1925	156	80,000	Hydro Electric Power Co.	168	45,000	H.E.P.C.	25% (R)
1926	180	80,000	Hydro Electric Power Co.	181	45,000	H.E.P.C.	25% (R)
1927	184	45,000	Hydro Electric Power Co.	185	80,000	H.E.P.C.	75% (L)
1928	213	45,000	Hydro Electric Power Co.	214	80,000	H.E.P.C.	100% (L)
1929	228	45,000	Hydro Electric Power Co.	229	80,000	H.E.P.C.	100%
1930	243	45,000	Hydro Electric Power Co.	244	80,000	H.E.P.C.	100%
1931	264	45,000	Hydro Electric Power Co.	265	80,000	H.E.P.C.	100%
1932	282	45,000	Hydro Electric Power Co.	283	80,000	H.E.P.C.	100%
1933	300	45,000	Hydro Electric Power Co.	301	80,000	H.E.P.C.	100%
1934	317	45,000	Hydro Electric Power Co.	318	80,000	H.E.P.C.	100%
1935	334	45,000	Hydro Electric Power Co.	335	80,000	H.E.P.C.	100%
1936	351	45,000	Hydro Electric Power Co.	352	80,000	H.E.P.C.	100%
1937	368	45,000	Hydro Electric Power Co.	369	80,000	H.E.P.C.	25% (R)
1938	386	45,000	Hydro Electric Power Co.	387	80,000	H.E.P.C.	25% (R)

(R) Leeway restricted to a period not longer than one hour at any time, and for not more than two hours altogether in any twenty-four hours. All firm licences also had this leeway.

(L) In the years 1927 and 1928 a leeway of only 25% was allowed from 4.00 p.m. to 7.00 p.m. on week-days from Monday to Friday inclusive and during the months of November, December and January; at all other times the leeway was 75% or 100% as indicated.

December 23, 1937.

Possibilities of Exporting in the Neighbourhood of Cornwall Under the Present Licence for 80,000 h.p.

Although the form of application which the Department of Trade and Commerce furnishes applicants, makes provision for a statement as to the location of the lines to be used for exportation, there does not appear to be anything in the Act or the regulations made by the Governor in Council which would require the licensee to export at any particular point. Therefore there does not appear to be any legal bar to the export of power in the neighborhood of Cornwall under the present licence for the exportation of 80,000 horsepower notwithstanding that this licence specifies points of delivery along the Niagara River.

Federal Statutory Position.

The present statutory position of the Federal Government in respect to the exportation of hydro-electric energy to the United States is set out in Chapter 54 of the Revised Statutes of Canada 1927, the Act being entitled "An Act to Regulate the Exportation of Electric Power and

Certain Liquids and Gases". The salient provisions of the Act are as follows:—

- “3. The Governor in Council may make regulations not inconsistent with this Act for giving effect to the object and intention thereof, and by such regulations may impose fees to be paid thereunder by applicants for licences or others.
2. Such regulations shall be laid before Parliament within fifteen days after the making thereof, or, if Parliament is not then in session, within fifteen days after the opening of the next session thereof. 1907, c. 16, s. 9.
- “4”. The Governor in Council may, by proclamation published in *The Canada Gazette*,
 - (a) impose export duties, not exceeding ten dollars per annum per horsepower, upon power exported from Canada, or not exceeding ten cents per thousand cubic feet on fluid exported from Canada, and such duties shall be chargeable accordingly after the publication of such proclamation;
 - (b) From time to time remove or re-impose such duties or vary the amount thereof;
 - (c) Exempt from payment of such duties such persons as comply with the direction of the Governor in Council with regard to the quantity of power or fluid to be supplied by such persons for distribution to customers for use in Canada. 1907, c. 16, s. 10.
- “5”. No person shall export any power or fluid without a licence, or any power or fluid in excess of the quantity permitted by his licence, or otherwise than as permitted by such licence.
2. No person shall, without a licence, construct or place in position any line of wire or other conductor for the exportation of power, or any pipe line or other like contrivance for the exportation of fluid. 1907, c. 16, s. 3.
- “6”. Subject to any regulations of the Governor in Council in that behalf, the Governor in Council may grant licences, upon such conditions as he thinks proper, for the exportation of power or fluid where a right to export exists by lawful authority.
2. Such licence shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case. 1907, c. 16, s. 4.
- “7”. Any such licence may provide that the quantity of power or fluid to be exported shall be limited to the surplus, after the licensee has supplied for distribution to customers for use in Canada power or fluid to the extent defined by such licence, at prices and in accordance with conditions, rules and regulations prescribed by the Governor in Council.
2. Every such licence shall be revocable at will by the Governor in Council if the licensee refuses or neglects to comply with any of the conditions imposed with regard to the supply and distribution of power or fluid in Canada. 1907, c. 16, s. 5”.

Pursuant to Clause 3 of this Act, the Department of Trade and Commerce (which administers the Act) issued regulations dated the 29th January, 1929, which regulations are at present in force.

The present policy of the Federal Government is to renew only existing licences, annually. No new licences have been granted for many years.

The most important debates on the question which have taken place in Parliament during the last twelve or thirteen years are those which occurred as follows:—

On June 15, 1925, a resolution was unanimously adopted by the House reading as follows: "That the export of hydro-electric power from Canada should be permitted only on a yearly licence, and that hereafter no licence for export of power beyond that already granted should be issued except with the concurrence of the province or provinces in which it is proposed to develop such power."

In 1927-1928 Bill No. 2 was introduced by Mr. H. H. Stewart (Conservative, Leeds) which was a "Bill to regulate exportation of electric power." The Bill was explained in the House by Rt. Hon. Mr. Bennett on February 10th, 1928, as follows: "I can explain it. The bill provides that the power which is now vested in the Governor in Council with respect to grants of licences for the exportation of electric energy, shall be vested in Parliament and not in the Governor in Council. Shortly, that is the whole purport of the bill." The bill was passed by the House of Commons but was defeated in the Senate.

In 1929, the issue was again raised in the House of Commons on a resolution introduced by Mr. T. L. Church in connection with the St. Lawrence Waterway, in which Mr. Church suggested that St. Lawrence Waterway power be not exported from Canada. In the course of a lengthy debate upon the subject, Rt. Hon. Mr. King said on February 25th, 1929, amongst other things, the following: "What I wish to make clear at the moment is that, with respect to any projected St. Lawrence development, this Parliament may take it as definitely settled and understood between the United States and Canada that power generated on the St. Lawrence and belonging to Canada, will not be exported to the United States but will be used for the development of our industries and our natural resources."

On March 13, 1933, in answer to questions asked by Mr. Garland as to whether the Government was aware of attempts being made on behalf of the Beauharnois enterprise to sell power to United States interests and whether any representations had been made to the Government by such interests for permission to export power, Rt. Hon. Mr. Bennett answered as follows: "No formal permission to export power has been given nor has any request been made formally for permission to export.... In any event the provisions of provincial statutes preclude the possibility of it being conveyed across highways or public places. Neither this, nor any government as far as I know, is in the habit of stating policy in respect of matters before the conditions necessitating the question of jurisdiction arise."

On May 2, 1933, the Prime Minister (Rt. Hon. Mr. Bennett) made the following statement: "There have been no licences issued for the export of power from this Dominion. What is more, if

the Hon. gentlemen had been as industrious as they might have been they would have found that the principle asserted by Mr. Meighen as to the danger and the difficulties which would follow the granting of licences for the export of power and the building up of communities was known to every member of this administration and of the house. None of the licences that are outstanding is new..."

On May 17, 1933, Rt. Hon. Mr. Bennett (the then Prime Minister) made the following statement: "With respect to the export of power....those who are interested will find that in 1925 the legislature of Quebec passed a statute, the preamble of which is as concise and powerful an indictment of any policy that will permit the export of power as it is possible to conceive can be put into words.... But the Province of Quebec has not the jurisdiction over the export of any commodity from this Dominion. That rests within the jurisdiction of the Dominion and this Parliament passed a statute which provides for licences being given before power.... is exported.... It is the considered judgment of this government as at present advised that we shall not grant any such licences. I say that for two reasons:— First, that it has been the settled policy of this country to maintain that view, it has been the view of successive governments.... But the second view which....is the powerful and prevailing one in my opinion is that....we cannot afford to export power and create community life in another country with industrial activities and then, when the requirements of our own country call for cutting off the licence to export, contemplate that situation without having regard to a statement made by a president of the United States that such action on our part would practically be considered an unfriendly act."

There have been no significant debates upon the subject of the export of power in the Federal Parliament at Ottawa since 1933.

It should be noted in passing that in 1907 the Dominion Parliament enacted the "Electricity and Fluid Exportation Act," which was assented to on the 27th April of that year. This Act prohibits the exportation of electrical energy without a licence, and provides for the issuance of licences by the Governor in Council permitting the exportation of power where the right to export exists by lawful authority, and states that "Such licence shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case."

Regulations were adopted by the Governor in Council on November 4th, 1907, Section 4 of which reads as follows:—

"4. Any licence issued hereunder shall be revocable at will by the Governor in Council if the licensee refuses, or neglects to comply with any of the conditions from time to time imposed by the Governor in Council with regard to the supply and distribution of electrical energy, gas or fluid in Canada, and moreover, whenever such electrical energy, gas or fluid is required for the use of purchasers in Canada, any such licence shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case."

By Proclamation issued on March 26th, 1925, an export duty of 3/100ths of a cent per kilowatt-hour was imposed by the Federal Government on the exportation of electrical energy to the United States.

Attitude of the Province of Quebec

In 1926, the Province of Quebec passed a statute (16 George 1926) assented to on the 24th March 1926, in effect, prohibiting the exportation of electrical power thereafter produced in the Province of Quebec. This prohibition was later modified by statute (23 George 1933, Chap. 20) assented to on the 13th April 1933, which reads as follows:—

"HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. Notwithstanding any provision prohibiting the exportation outside of Canada, of electric power, contained, under Section 1 of the Act 16 George V, chapter 26, in a sale, lease or grant respecting waterpowers belonging to the Province or in which it has rights of ownership or other rights, the Lieutenant-Governor in Council may, for the period or periods of time that he may fix and on such terms and conditions as he may determine, suspend the effect of such prohibition; provided, however, that the quantity of electric power, the exportation whereof may be thus authorized, shall not exceed in all three hundred thousand horsepower, and provided also that the sale price of the electric power so exported be not below that for which it is sold in the province of Quebec.
2. This act shall come into force on the day of its sanction."

No. 45.

*From the Minister of Trade and Commerce,
To the Premier of Ontario.*

HON. MITCHELL F. HEPBURN,
Premier of Ontario,
Parliament Buildings,
Toronto, Ont.

OTTAWA, Jan. 26th, 1938.

*Application for Licence to Export to the U.S.,
90,000 kw. of surplus interruptible electrical power.*

DEAR SIR,—

This is to acknowledge receipt of your communication of January 21, in which you state your desire to export to the United States, 90,000 kilowatts of surplus electrical power and enclosing further an addendum bearing on the matter.

*End of addendum enclosed in letter from the Premier of Ontario to the Minister of Trade and Commerce of January 21, 1938, No. 44 herein.

The question of the export of power will be dealt with by Parliament at the Session which opens to-morrow, and a definite decision will then be made with regard to your application.

I note that you have made a copy of your letter for the Director of Electricity and Gas Inspection Services, in the expectation that he will forward the usual form of application to you. As this copy was not enclosed in your letter to me, I assume you are forwarding it direct to Mr. Stiver.

Yours truly,

W. D. EULER

No. 46.

Revised Statutes of Canada, 1927, Chap. 54,

The Electricity and Fluid Exportation Act.

CHAPTER 54.

An Act to regulate the Exportation of Electric Power and certain Liquids and Gases.

SHORT TITLE

1. This Act may be cited as the Electricity and Fluid Short title. Exportation Act. 1907, c. 16, s. 1.

INTERPRETATION.

2. In this Act, unless the context otherwise requires, Definitions.
- (a) "export" and "exportation" mean, "Export."
"Exporta-
tion."
- (i) when used with reference to electrical power or energy, respectively export and exportation from Canada by lines of wire or other conductor,
- (ii) when used with reference to petroleum, natural gas, water or other fluid, whether liquid or gaseous, capable of being exported, respectively export and exportation from Canada through pipe lines or other like contrivances;
- (b) "fluid" means petroleum, natural gas, water or other fluid, whether liquid or gaseous, capable of being exported by means of pipe lines or other like contrivances, and produced in Canada;
- (c) "power" means electrical power or energy produced in Canada. 1907, c. 16, s. 2.

Regulations.

3. The Governor in Council may make regulations not inconsistent with this Act for giving effect to the object and intention thereof, and by such regulations may impose fees to be paid thereunder by applicants for licences or others.

To be laid
before
Parlia-
ment.

2. Such regulations shall be laid before Parliament within fifteen days after the making thereof, or, if Parliament is not then in session, within fifteen days after the opening of the next session thereof. 1907, c. 16, s. 9.

4. The Governor in Council may, by proclamation published in *The Canada Gazette*,

Export
duties.

(a) impose export duties, not exceeding ten dollars per annum per horse power, upon power exported from Canada, or not exceeding ten cents per thousand cubic feet on fluid exported from Canada, and such duties shall be chargeable accordingly after the publication of such proclamation;

Removal
thereof.

(b) from time to time remove or re-impose such duties or vary the amount thereof;

Exemption
therefrom.

(c) exempt from the payment of such duties such persons as comply with the direction of the Governor in Council with regard to the quantity of power or fluid to be supplied by such persons for distribution to customers for use in Canada. 1907, c. 16, s. 10.

Export of
power or
fluid.

5. No person shall export any power or fluid without a licence, or any power or fluid in excess of the quantity permitted by his licence, or otherwise than as permitted by such licence.

Construc-
tion of line
without
licence
prohibited.

2. No person shall, without a licence, construct or place in position any line of wire or other conductor for the exportation of power, or any pipe line or other like contrivance for the exportation of fluid. 1907, c. 16, s. 3.

Licence
to export.

6. Subject to any regulations of the Governor in Council in that behalf, the Governor in Council may grant licences, upon such conditions as he thinks proper, for the exportation of power or fluid where a right to export exists by lawful authority.

Revocation.

2. Such licence shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case. 1907, c. 16, s. 4.

7. Any such licence may provide that the quantity of power or fluid to be exported shall be limited to the surplus, after the licensee has supplied for distribution to customers for use in Canada power or fluid to the extent defined by such licence, at prices and in accordance with conditions, rules and regulations prescribed by the Governor in Council. Provisions of licence.

2. Every such licence shall be revocable at will by the Governor in Council if the licensee refuses or neglects to comply with any of the conditions imposed with regard to the supply and distribution of power or fluid in Canada. 1907, c. 16, s. 5. Revocation.

8. Subject to any regulations of the Governor in Council in that behalf, the Governor in Council may grant licences for the construction, placing or laying of any line of wire or other conductor for the exportation of power, or of any pipe line or other like contrivance for the exportation of fluid. 1907, c. 16, s. 6. Licences to place wire, etc.

9. Every person who exports any such power or fluid contrary to the provisions of this Act shall, for each day on which any such export takes place, be liable to a penalty not exceeding five thousand dollars and not less than one thousand dollars. 1907, c. 16, s. 7. Penalty for unlawful exportation.

10. Every person who, contrary to the provisions of this Act, constructs, places or lays in position any line of wire or other conductor for the exportation of power, or any pipe line or other like contrivance for the exportation of fluid, shall for each such offence be liable to a penalty not exceeding five thousand dollars and not less than one thousand dollars, and to forfeiture and confiscation of such line of wire or other conductor, or of such pipe line or other contrivance, which may forthwith upon such conviction be destroyed or removed by direction of the Governor in Council. 1907, c. 16, s. 8. Penalties for unlawfully placing wires, etc.

No. 47.

*Regulations respecting export of electrical energy, January 29, 1929,
based on authority of Order in Council of November 4, 1907.*

REGULATIONS

1. These Regulations are to be construed as subject in all respects to the provisions of the Act, and the several words, terms and expressions to which by the Act meanings are assigned shall have therein the same respective meanings:—

- (a) "Minister" means the Minister of Trade and Commerce;
- (b) "Department" means the Department of Trade and Commerce;
- (c) "Contractor" means any person or Company undertaking to generate or produce electrical energy, gas or fluid for exportation from Canada;
- (d) "Purchaser" means any person or Company to whom electrical energy, gas or fluid is furnished by the Contractor;
- (e) The expression "Unit of Supply of Electrical Energy" means one Kilowatt hour, i.e., 1,000 watts passing for one hour.
- (f) The expression "Electrical Horse-Power Year" means the passing of 746 watts of electrical energy for one year.

2. Before commencing to supply any electrical energy, gas or fluid for exportation, the contractor shall obtain from the Department a licence in respect of such exportation, the application for which licence shall contain full and exact information as to the quantities proposed to be exported from Canada.

3. The contractor shall, on or before the 1st day of April of each year, make application for the licence referred to in the previous paragraph and shall pay therefor the following fee, namely:—

- (a) In the case of an electrical plant generating not more than 10,000 horse-power, twenty-five dollars;
- (b) In the case of an electrical plant generating over 10,000 horse-power, fifty dollars;
- (c) In the case of a natural gas plant, fifty dollars.

4. Any license issued hereunder shall be revocable at will by the Governor in Council if the licensee refuses or neglects to comply with any of the conditions from time to time imposed by the Governor in

Council with regard to the supply and distribution of electrical energy, gas or fluid in Canada, and, moreover, whenever such electrical energy, gas or fluid is required for the use of purchasers in Canada, any such license shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case.

5. Monthly reports shall be made to the Department by the contractor, containing full particulars as to the output of the generating plants or wells of production, showing separately the total number of units generated for export and for consumption in Canada.

6. For the measurement of electrical energy integrating watt-meters of approved design shall be installed in such a manner as to show the total number of units generated for export and for consumption in Canada respectively.

7. Before commencing to construct, subsequent to the issuance of the license, transmission lines of wire for the exportation of electrical energy, or lines of pipe for the exportation of gas or fluid, the contractor shall obtain from the Department a license for such construction.

The contractor shall furnish a drawing or map showing the proposed location of the transmission lines or any extension thereof; also:—

- (a) The gauge of the wire conductors for the transmission of electrical energy;
- (b) The diameter in inches of the pipe lines for gas or fluids, and
- (c) The number of conductors or pipe lines that it is proposed to build or construct.

8. Where a supply of electrical energy, gas or fluid is provided in any part of Canada by the contractor for export and home consumption, then the price charged to any person or company in Canada by the contractor shall not exceed the prices at which electrical energy, gas or fluid is sold by the contractor for export in like quantities under similar circumstances.

9. Any officer authorized by the Minister for the purposes of the Act may at all reasonable times, and not less frequently than once in every year, enter any premises in which electrical energy, gas or fluid is generated or produced, in order:—

- (a) To inspect the generating plant, to test any wires, pipes, meters or other measuring devices through which electrical energy, gas or fluid may be supplied to any purchaser, or
- (b) To inspect the contractor's books for the purpose of ascertaining the quantities and prices of the commodities sold and such other information as may be deemed necessary for the proper administration of the Act, and
- (c) To inspect all contracts entered into between the contractor and the purchaser for a supply of electrical energy, gas or fluid.

10. The accuracy of any meter or other measuring device through which electrical energy, gas or fluid may be sold, either for export or home consumption, shall be determined by the Department in accordance with the provisions of the Electricity and Gas Inspections Acts, Chapters 22 (1928) and 82 R.S. 1927, respectively, and the regulations made thereunder.

No. 48.

Order in Council of March 16, 1925, P.C. 397, imposing Export Duty

P.C. 397

PRIVY COUNCIL

CANADA

Certified copy of a Minute of a Meeting of the Committee of the Privy Council, approved by His Excellency the Governor General on the 16th March, 1925.

The Committee of the Privy Council, on the recommendation of the Acting Minister of Finance, advise that a Proclamation be issued and published in the Canada Gazette under the authority of Section 10 of the Electricity and Fluid Exportation Act, Chapter 16 of the Statutes of 1907, imposing an export duty of three one-hundredths of one cent (.030c) per kilowatt hour upon power, as defined in the said Act, exported from Canada; said duty to be in addition to any fee payable for a license for the exportation of power; to be collected by the Minister of Trade and Commerce under regulations approved by Your Excellency in Council, and to be payable in respect of power exported on and after the first day of April, 1925.

E. J. LEMAIRE

Clerk of the Privy Council.

No. 49.

*Order in Council of April 18, 1925, P.C. 569, making Export
Duty Regulations*

PRIVY COUNCIL

CANADA

AT THE GOVERNMENT HOUSE AT OTTAWA

SATURDAY, the 18th day of April, 1925.

PRESENT:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL:

His Excellency the Governor General in Council, on the recommendation of the Minister of Trade and Commerce and pursuant to the powers conferred by Section 9 of the Electricity and Fluid Exportation Act, Chapter 16, of the Statutes of 1907, or otherwise, is pleased to make the following Regulations governing the collection by the Minister of Trade and Commerce of the export duty on power imposed by the proclamation published in pursuance of the Order in Council, dated 16th of March, 1925, (P.C. 397), and the same are hereby made and established accordingly:

REGULATIONS

1. The duty shall be paid monthly by the contractor, and the amount shall be computed from the figures giving the total kilowatt hour output for export, as supplied on the monthly return (L. 17) required by paragraph 5 of the General Regulations of the 4th of November, 1907.

2. A marked cheque in favour of the Receiver General, Canada, for the amount computed, as above specified, shall accompany each return. This cheque together with the return shall be delivered or mailed by the contractor so as to reach the Department not later than the 15th day of the month following that to which the return refers.

3. The meter readings, from which the figures referred to in Section 1 are obtained, shall be supplied by the contractor in addition to the details given on return L. 17, and shall accompany it.

4. Any Inspector of the Electricity and Gas Inspection Branch, on instructions from the Department, may at all reasonable times enter any premises in which electrical energy is generated or distributed in order—

- (a) to verify any meter readings that are submitted to the Department.
- (b) to inspect and check the accuracy of all instruments used in making the required electrical measurements.

5. Every contractor, who makes default in complying with any requirement specified in the above mentioned Regulations, shall be liable to a penalty of \$50 for every day during which such default continues.

E. J. LEMAIRE
Clerk of the Privy Council.

No. 50.

*Form of Application to Department of Trade and Commerce for Licence
to Export Electrical Energy*

THE DEPARTMENT OF TRADE AND COMMERCE, CANADA

ELECTRICITY EXPORTATION

APPLICATION

FROM

.....
..... Company

TO EXPORT ELECTRICAL ENERGY

For the Fiscal Year ending.....19....

**APPLICATION FOR A LICENCE TO EXPORT ELECTRICAL
ENERGY**

Under the Provisions of the Electricity and Fluid Exportation Act,
Chapter 54, R.S., 1927

TO THE DEPARTMENT OF TRADE AND COMMERCE, OTTAWA

Application is hereby made in favour of.....
.....
doing business at.....in the
County of.....Province of.....
for a licence to export electrical energy under the Provisions of the
above Act.

The plant or plants supplying the power to be exported are located
at

and have a total generating capacity of.....kilowatts.

The transmission lines used for the exportation of power cross the
boundary at Canada

The rate of exportation of energy for which licence is requested
will not exceed.....kilowatts.

Sufficient power will be available at all times for use in Canada to
meet all applications for the same from the above-named plants.

Particulars as to the terms and rates of existing contracts and
agreements for the exportation of power are attached hereto and form
part of this application.

The licence fee amounting to \$.....in accordance with
Section 3 of the Regulations is enclosed herewith.

Dated at.....
thisday of.....19.. *Applicant.*

Province of	}	In the matter of a licence to export electrical energy by the:— Company.
County of		
To wit:		

I, of the.....
of occupation.....
do Solemnly Declare:—

1. That I am the.....of the above named Company.
2. That I am conversant with the matter herein declared to.
3. That the within Application bearing the signature of.....
..... and dated the.....day of.....19....
is true and correct to the best of my knowledge and belief.

And I make this solemn declaration conscientiously believing it to
be true, and knowing that it is of the same force and effect as if made
under oath, and by virtue of The Canada Evidence Act.

Declared before me at.....	}
this .....day of .....19..		
..... <i>Commissioner or J.P.</i>		

No. 51.

*Form of Communication from Department of Trade and Commerce
to Licensee.*

DEPARTMENT OF TRADE AND COMMERCE

OTTAWA.....

DEAR SIRs:

The export licence under which you are now furnishing.....
H.P. to the.....will shortly come before the Department for
renewal. I am therefore writing to ask that you be good enough to
supply us with certain information, before or at the date of forwarding
your application for continued export licence.

Representations have been made to the Department from various
sources, that the exportation of power is tending to the development
of business outside Canada, at the expense of Canadian enterprise,
which is deprived of power produced in Canada, and thus deflected to
development outside the Dominion.

The Department would therefore request that in applying for a
renewal of your present licence or in making any further application for
the export of power, you should accompany the same with a declaration
that sufficient power is available for use in Canada, to meet all applica-
tions for the same from the plant whose power it is proposed to export,
and that the electrical power for the export of which permission is
sought is not required in the Dominion.

Yours very truly,

Deputy Minister.

No. 52.*Department of Trade and Commerce Form of Licence.*

THE DEPARTMENT OF



TRADE AND COMMERCE

CANADA

A LICENCE TO EXPORT ELECTRICAL ENERGY UNDER THE PROVISIONS OF THE
ELECTRICITY AND FLUID EXPORTATION ACT, CHAPTER 54, R. S., 1927
AND THE REGULATIONS MADE THEREUNDER.

LICENCE Number _____ is hereby granted to the
doing business at _____ in the County of _____
and Province of _____

to export or to sell for export from Canada during the fiscal year ending
31st March, 19____, electrical energy at a rate not to exceed at any
time during continuance of the licence,
kilowatts, provided:—

- (a) That momentary indications in excess of the authorized quantity, due to short circuits, grounds, etc., will not be considered as violations of this licence, and
- (b) That the maximum demand or peak of load curves, will not be considered as a violation of the licence when such peak does not exceed twenty-five per centum of the quantity herein stated, and does not continue above the licensed rate for a longer period than one hour at any time, and for not more than two hours altogether in any twenty-four hours.

This licence being only for one year, licensees must not enter into any contract which they will not be able to carry out if this licence is not renewed, or if the Electricity and Fluid Exportation Act or the Regulations made thereunder are changed.

This licence is subject to the Statutes of Canada, now in force, or hereafter to be enacted and also to the provisions of the Regulations regarding electrical power, &c., approved by the Governor General in Council on the 4th day of November, 1907, and to any Regulations which may hereafter be made, which Statutes and Regulations are made conditions hereof.

Every contract made under this licence shall contain a clause or clauses expressly setting forth that it is made by virtue of this licence, which is subject to the Electricity and Fluid Exportation Act and any amendments that may be made to it, and also is subject to the Regula-

tions made or which may be made by the Governor General in Council regarding the same; and every contract made under this licence shall have attached thereto a copy of this licence and of the Electricity and Fluid Exportation Act, and of the Regulations approved by the Governor General in Council on the 4th day of November, 1907.

This licence, if renewed, shall be subject to the terms and conditions of such Regulations as may be made from time to time, either by Statute or the Governor General in Council.

Countersigned by

Deputy Minister.

Director.

Dated at Ottawa this

day of

, 19 .

L. 27.

No. 53.

Yearly Export Licences issued under the Electricity and Fluid Exportation Act, 1907 (Revised Statutes of Canada, 1927, Chapter 54)

TABLE SHOWING IN EACH CASE THE NAME OF THE LICENSEE; THE PLACE WHERE THE TRANSMISSION LINE CROSSES THE BOUNDARY; THE DATE OF THE ORIGINAL LICENCE; THE KIND OF POWER; AND THE QUANTITY OF ELECTRICAL ENERGY LICENSED YEARLY.

Fiscal Year ending March 31st	Canadian Niagara Power Company, Niagara Falls, Ont. <i>Transmission line crosses boundary at or near Fort Erie and Niagara Falls, Ontario, Date of original licence—9/11/07</i>	Canadian Niagara Power Company, Niagara Falls, Ont. <i>Transmission Line crosses boundary at or near Fort Erie and Niagara Falls, Ontario. Date of original licence—8/4/25</i>	Electrical Development Company of Ont. Niagara Falls, Ontario. <i>Transmission line crossed boundary at or near Fort Erie, Ont. Date of original licence—9/11/07</i>
	FIRM POWER	SURPLUS RETURNABLE ON DEMAND	FIRM POWER
1908	39,165 kilowatts.....		34,316 kilowatts
1909	39,165 "		34,316 "
1910	39,165 "		34,316 "
1911	39,165 "		34,316 "
1912	39,165 "		34,316 "
1913	40,000 "		35,000 "
1914	40,000 "		35,000 "
1915	55,000 "		35,000 "
1916	55,000 "		35,000 "
1917	55,000 "		30,000 "
1918	a26,840 "		a16,420 "
1919	a26,840 "		a16,420 "
1920	40,000 "		25,000 "
1921	40,000 "		35,000 "
1922	45,000 "		35,000 "
1923	45,000 "		35,000 "
1924	45,000 "		35,000 "
1925	45,000 "		b
1926	45,000 "	20,000 kilowatts.....	
1927	45,000 "	20,000 "	
1928	45,000 "	20,000 "	
1929	45,000 "	20,000 "	
1930	45,000 "	20,000 "	
1931	45,000 "	20,000 "	
1932	45,000 "	20,000 "	
1933	45,000 "	20,000 "	
1934	45,000 "	20,000 "	
1935	45,000 "	20,000 "	
1936	45,000 "	20,000 "	
1937	45,000 "	20,000 "	
1938	45,000 "	20,000 "	

a. These companies were under the control of the Electric Power Controller for these years and licences were not issued by this Department. The amounts shown are those recommended by Power Controller.

b. The Electrical Development Company and The Ontario Power Company were purchased by the Hydro-Electric Power Commission, and a licence equal to the sum of the licences of these two Companies was obtained by the Hydro-Electric Power Commission.

Fiscal Year Ending March 31st	Ontario Power Company, Niagara Falls, Ont. <i>Transmission line crossed boundary at or near Niagara Falls, Ontario. Date of original licence—9/11/07</i>	Hydro-Electric Power Commission of Ontario, Toronto, Ontario. <i>Transmission line crosses boundary at or near Queenston, Ontario. Date of original licence—31/3/24</i>	Hydro-Electric Power Commission of Ontario, Toronto, Ontario. <i>Transmission line crosses boundary at or near Queenston, Niagara Falls and Bridgeburg, Ontario. Date of original licence—15/5/24</i>
	FIRM POWER	FIRM POWER	SURPLUS INTERRUPTIBLE
1908	45,000 kilowatts.....		
1909	45,000 "		
1910	45,000 "		
1911	45,000 "		
1912	45,000 "		
1913	45,000 "		
1914	45,000 "		
1915	45,000 "		
1916	60,000 "		
1917	45,000 "		
1918	a37,300 "		
1919	a37,300 "		
1920	45,000 "		
1921	45,000 "		
1922	45,000 "		
1923	45,000 "		
1924	45,000 "		
1925	b.....	b80,000 kilowatts.....	45,000 kilowatts
1926	.....	80,000 "	45,000 "
1927	.....	45,000 "	80,000 "
1928	.....	45,000 "	80,000 "
1929	.....	45,000 "	80,000 "
1930	.....	45,000 "	80,000 "
1931	.....	45,000 "	80,000 "
1932	.....	45,000 "	80,000 "
1933	.....	45,000 "	80,000 "
1934	.....	45,000 "	80,000 "
1935	.....	45,000 "	80,000 "
1936	.....	45,000 "	80,000 "
1937	.....	45,000 "	80,000 "
1938	.....	45,000 "	80,000 "

a. This company was under the control of the Electric Power Controller for these years and licence was not issued by this Department. The amounts shown are those recommended by Power Controller.

b. The Electrical Development Company and The Ontario Power Company were purchased by the Hydro-Electric Power Commission, and a licence equal to the sum of the licences of these two Companies was obtained by the Hydro-Electric Power Commission.

Fiscal Year Ending March 31st	Maine & New Brunswick Electrical Power Co. Aroostook Falls, N.B. <i>Transmission line crosses boundary at or near Aroostook Falls, N.B. Date of original licence—9/11/07</i>	Maine & New Brunswick Electrical Power Co. Aroostook Falls, N.B. <i>Transmission line crosses boundary at or near Aroostook Falls, N.B. Date of original licence—4/8/27</i>	Ontario & Minnesota Power Company, Fort Frances, Ont. <i>Transmission line crosses boundary at or near Fort Frances, Ontario. Date of original licence—17/12/09</i>
	FIRM POWER	SURPLUS RETURNABLE ON DEMAND	FIRM POWER
1908	1,000 kilowatts.....		
1909	1,000 ".....		2,611 "
1910	1,000 ".....		2,611 "
1911	1,000 ".....		2,611 "
1912	2,000 ".....		2,611 "
1913	2,500 ".....		2,611 "
1914	2,500 ".....		3,811 "
1915	2,500 ".....		3,811 "
1916	2,500 ".....		3,811 "
1917	2,500 ".....		3,811 "
1918	2,500 ".....		3,811 "
1919	2,500 ".....		3,811 "
1920	2,500 ".....		3,811 "
1921	2,500 ".....		2,611 "
1922	2,500 ".....		3,000 "
1923	2,500 ".....		3,000 "
1924	2,500 ".....		3,000 "
1925	2,500 ".....		3,000 "
1926	2,500 ".....		3,000 "
1927	2,500 ".....		3,000 "
1928	2,500 ".....	2,500 kilowatts.....	3,000 "
1929	2,500 ".....	2,500 ".....	3,000 "
1930	2,500 ".....	2,500 ".....	3,000 "
1931	2,500 ".....	2,500 ".....	3,000 "
1932	2,500 ".....	2,500 ".....	3,000 "
1933	2,500 ".....	2,500 ".....	3,000 "
1934	2,500 ".....	2,500 ".....	3,000 "
1935	2,500 ".....	2,500 ".....	3,000 "
1936	2,500 ".....	2,500 ".....	3,000 "
1937	2,500 ".....	2,500 ".....	3,000 "
1938	2,500 ".....	2,500 ".....	5,500 "

Fiscal Year ending March 31st	Electrical Dis- tributing Company, Windsor, Ontario. (No transmission line constructed —did not export Date of original licence—6/2/11	Sherbrooke Railway & Power Company, Sherbrooke, P.Q. Transmission line crossed boundary at or near Rock Island, P.Q. Date of original licence—7/12/11	Southern Canada Power Company, Montreal, P.Q. Transmission line crosses boundary at or near Rock Island, P.Q. Date of original licence—14/4/26
	FIRM POWER	FIRM POWER	FIRM POWER
1912	18,650 kilowatts	40 kilowatts.....	
1913	18,650 “	50 “	
1914	18,650 “	50 “	
1915	10,000 “	50 “	
1916	50 “	
1917	50 “	
1918	100 “	
1919	100 “	
1920	100 “	
1921	100 “	
1922	100 “	
1923	100 “	
1924	100 “	
1925	100 “	
1926	100 “	
1927	c	c 100 kilowatts
1928	100 “
1929	500 “
1930	500 “
1931	500 “
1932	500 “
1933	500 “
1934	500 “
1935	500 “
1936	500 “
1937	750 “
1938	750 “

c. The Sherbrooke Railway & Power Company is a subsidiary of the Southern Canada Power Company, and the licence is now granted in the name of the Southern Canada Power Company.

Fiscal Year Ending March 31st	Western Canada Power Company, Vancouver, B.C. <i>Transmission line crosses boundary at or near Huntingdon, B.C. Date of original licence—22/4/11</i>	British Columbia Electric Railway Company, Vancouver, B.C. <i>Transmission line crosses boundary at or near Point Roberts, Wash., U.S.A. Date of original licence—22/4/11</i>	International Railway Company, Buffalo, N.Y., U.S.A. <i>Transmission line crossed boundary at or near Niagara Falls, Ontario. Date of original licence—4/6/12</i>
	FIRM POWER	FIRM POWER	FIRM POWER
1912	500 kilowatts.....	500 kilowatts.....	125 kilowatts
1913	5,000 ".....	500 ".....	125 "
1914	5,000 ".....	1,000 ".....	125 "
1915	5,000 ".....	1,000 ".....	125 "
1916	5,000 ".....	1,000 ".....	200 "
1917	5,000 ".....	1,000 ".....	200 "
1918	5,000 ".....	1,000 ".....	200 "
1919	5,000 ".....	1,000 ".....	200 "
1920	5,000 ".....	1,000 ".....	200 "
1921	5,000 ".....	1,000 ".....	200 "
1922	5,000 ".....	5,000 ".....	200 "
1923	5,000 ".....	5,000 ".....	200 "
1924	10,000 ".....	5,000 ".....	200 "
1925	10,000 ".....	5,000 ".....	200 "
1926	10,000 ".....	5,000 ".....	200 "
1927	10,000 ".....	5,000 ".....	200 "
1928	10,000 ".....	5,000 ".....	200 "
1929	10,000 ".....	5,000 ".....	200 "
1930	10,000 ".....	5,000 ".....	200 "
1931	10,000 ".....	5,000 ".....	200 "
1932	10,000 ".....	5,000 ".....	200 "
1933	10,000 ".....	5,000 ".....	200 "
1934	10,000 ".....	5,000 ".....	
1935	10,000 ".....	5,000 ".....	
1936	10,000 ".....	5,000 ".....	
1937	10,000 ".....	5,000 ".....	
1938	10,000 ".....	5,000 ".....	

Fiscal Year ending March 31st	Cedar Rapids Manufacturing & Power Company, Montreal, P.Q. <i>Transmission line crosses boundary at or near Mille Roches, Ontario. Date of original licence—9/10/12</i>	West Kootenay Power Company, Rossland, B.C. <i>Transmission line crossed boundary at or near Silica, B.C. Date of original licence—22/12/17</i>	Bridge River Power Company, Vancouver, B.C. <i>(No transmission line constructed —did not export) Date of original licence—16/2/21</i>
	FIRM POWER	FIRM POWER	FIRM POWER
1913	45,000 kilowatts.....		
1914	45,000 ".....		
1915	45,000 ".....		
1916	75,000 ".....		
1917	75,000 ".....		
1918	75,000 ".....	1,500 kilowatts.....	
1919	75,000 ".....	1,500 ".....	
1920	75,000 ".....	1,500 ".....	
1921	75,000 ".....	1,500 ".....	28,000 kilowatts
1922	75,000 ".....	1,500 ".....	28,000 "
1923	75,000 ".....	1,500 ".....	28,000 "
1924	75,000 ".....	1,500 ".....	28,000 "
1925	75,000 ".....	1,500 ".....	28,000 "
1926	75,000 ".....	1,500 ".....	
1927	75,000 ".....	1,500 ".....	
1928	75,000 ".....	1,500 ".....	
1929	75,000 ".....	1,500 ".....	
1930	75,000 ".....	d	
1931	75,000 ".....		
1932	75,000 ".....		
1933	75,000 ".....		
1934	75,000 ".....		
1935	75,000 ".....		
1936	75,000 ".....		
1937	75,000 ".....		
1938	75,000 ".....		

d. The Northport Power & Light Company is a subsidiary of the West Kootenay Power Company and the licence is now granted in the name of the Northport Power & Light Company.

Fiscal Year Ending March 31st	La Compagnie d'Eclairage de Napierville, P.Q. <i>Transmission line crossed boundary at or near Lacolle, P.Q. Date of original licence—31/3/24</i>	International Electric Company, Stewart, B.C. <i>Transmission line crossed boundary at or near Hyder, B.C. Date of original licence—3/4/25</i>	Fraser Companies, Limited, Edmundston, N.B. <i>Transmission line crosses boundary at or near Edmundston, N.B. Date of original licence—5/6/26</i>
	FIRM POWER	FIRM POWER	FIRM POWER
1925	500 kilowatts.....		
1926	500 ".....	25 kilowatts.....	
1927	500 ".....	25 ".....	1,000 kilowatts
1928	500 ".....	25 ".....	1,000 "
1929	<i>e</i>	25 ".....	1,500 "
1930		<i>f</i>	1,500 "
1931			1,500 "
1932			1,500 "
1933			1,500 "
1934			1,500 "
1935			1,500 "
1936			1,500 "
1937			1,500 "
1938			1,500 "

e. La Compagnie d'Eclairage de Napierville was purchased by the Gatineau Power Company and the licence is now granted in the name of the Gatineau Power Company.

f. International Electric Company was purchased by the Power Corporation of Canada and the licence is now granted to the Northern British Columbia Power Company, which is a subsidiary of Power Corporation.

Fiscal Year ending March 31st	Maritime Electric Company, St. Stephen, N.B. <i>Transmission line crossed boundary at or near Milltown, N.B. Date of original licence—1/5/25</i>	Gatineau Power Company, Limited, Ottawa, Ontario. <i>Transmission line crosses boundary at or near Lacolle, P.Q. Date of original licence—7/4/28</i>	Northern British Columbia Power Company, Stewart, B.C. <i>Transmission line crosses boundary at or near Hyder, B.C. Date of original licence—13/9/29</i>
	FIRM POWER	FIRM POWER	FIRM POWER
1926	200 kilowatts.....		
1927	200 ".....		
1928	200 ".....		
1929	200 ".....	500 kilowatts.....	
1930	600 ".....	500 ".....	25 kilowatts
1931	600 ".....	500 ".....	25 "
1932	600 ".....	500 ".....	25 "
1933	600 ".....	500 ".....	25 "
1934	600 ".....	500 ".....	25 "
1935	600 ".....	500 ".....	25 "
1936	600 ".....	500 ".....	25 "
1937	600 ".....	500 ".....	25 "
1938	<i>g</i>	500 ".....	25 "

g. Canadian Cottons, Limited, now have a licence to export power at Milltown, N.B., which was previously exported under a licence to the Maritime Electric Company.

Fiscal Year Ending March 31st	Northport Power & Light Company, Stewart, B.C. <i>Transmission line crosses boundary at or near Cascade, Grand Forks, and Silica, B.C. Date of original licence— 25/7/29</i>	Detroit & Windsor Subway Company, Windsor, Ontario. <i>Transmission line crosses boundary at or near Windsor, Ontario. Date of original licence—3/11/30</i>	Manitoba Power Commission, Winnipeg, Manitoba. <i>Transmission line crosses boundary at or near Gretna, Manitoba. Date of original licence—28/8/36</i>	Canadian Cottons, Ltd. Milltown, N.B. <i>Transmission line crosses boundary at or near Milltown, N.B. Date of original licence—22/3/37</i>
	FIRM POWER	FIRM POWER	FIRM POWER	FIRM POWER
	<i>d</i>			
1930	1,500 kilowatts...	300 kilowatts		
1931	1,500 " ..	300 " ..		
1932	1,500 " ..	300 " ..		
1933	1,500 " ..	300 " ..		
1934	1,500 " ..	300 " ..		
1935	1,500 " ..	300 " ..		
1936	1,500 " ..	300 " ..		
1937	1,500 " ..	300 " ..	1,000 kilowatts...	<i>g</i>
1938	1,500 " ..	300 " ..	1,000 " ..	700 kilowatts

g. Canadian Cottons, Limited, now have a licence to export power at Milltown, N.B., which was previously exported under a licence to the Maritime Electric Company.

d. The Northport Power & Light Company is a subsidiary of the West Kootenay Power Company and the licence is now granted in the name of the Northport Power & Light Company.

No. 54.

P.C. 2203, Order in Council for communication to the Government of the United States, August 25, 1914.

P.C. 2203.

PRIVY COUNCIL

CANADA

CERTIFIED copy of a Report of the Committee of the Privy Council, approved by His Royal Highness the Governor General on the 25th August, 1914.

The Committee of the Privy Council have had before them a Report, dated 16th June, 1914, from the Right Honourable the Secretary of State for External Affairs, calling attention to a recent opinion of the Public Service Commission of the State of New York in the matter of the application of the Canadian-American Power Corporation for permission to import an additional 46,000 horse power of electrical energy from Canada into the United States.

The Minister observes that the opinion, in discussing the laws and regulations of the Dominion of Canada relating to the exportation of

electrical energy and their effect on the question of granting the desired permit, uses the following language:—

“GOVERNMENT LIMITATIONS UPON THE EXPORT
OF ELECTRIC POWER FROM CANADA.

“The Canadian Government requires the taking out of a yearly licence permitting exportation of Niagara electric power. Upon the limitations existing as to the exportation of electric power from Canada into the United States, it appears that for many years, under the so-called Burton Act, and by action of the Canadian Government a very large amount of Canadian-produced Niagara electric power has been and is now being imported into this country at and about the Niagara Frontier, and is being distributed for light and industrial power and railroad purposes within the State of New York in many places, embracing Syracuse to the east, the southwestern part of the State, territory south of Lake Ontario and Buffalo, and Niagara Falls in the west. The companies distributing this imported power have issued stocks and bonds in very large amounts based upon their business of distributing Canadian power. This applicant is now seeking to enter the same field. Without going into details, it seems sufficient to say that the prohibition of exportation from Canada of this present electric power which now comes into this country would paralyze business and industry of many kinds and would deprive numerous localities of electricity for light. American-produced Niagara power is so far from supplying the vital needs of the sections of the State above described that the immediate results of such prohibition would plainly amount to a great public calamity... The form of securing a licence yearly from the Dominion Government is required by the Dominion law, but such licence has been granted yearly to the other great producing electrical corporations of Canada, and no reason appears for apprehension that any discrimination would be made against the Electrical Development Company or the Toronto Power Company, lessee. We have nothing before us but the suggestion that the Dominion of Canada may at some future time forbid this exportation. This Commission must assume that international relations affecting so important a subject as the means of continuing great industries which have grown up in reliance upon the use of this imported power, and as well the interests of the Canadian producing companies themselves, have become fixed and subject only to such changes as will fully protect the great commercial and industrial interests and rights now served by this power brought from Canada. The time has long since passed when governments proceed ruthlessly from pure national rashness or anger to destroy the settled accepted commercial relations and formally vested rights of persons and corporations.”

The Minister further observes that from the foregoing it is conceivable that some misapprehension may exist as to the scope and effect of the action of the Government of Canada with respect to the exportation of electrical energy and as to the object toward which such action has been and is directed.

That object is apparent from and indeed is embodied in the laws, regulations, and procedure under which this Government has hitherto permitted such exportation and by virtue of which alone electrical energy is exported from Canada.

The Electricity and Fluid Exportation Act (6-7 Edward VII, C. 16—a copy of which is hereto appended) provides that no person shall export electrical energy without a licence, or otherwise than as permitted by such a licence; that subject to the regulations made by him in that behalf, the Governor in Council may grant licences; that licences shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case; that any licence may provide that the quantity of power to be exported shall be limited to the surplus after the licensee has first provided for Canadian consumers to the extent defined by the licence; that every such licence shall be revocable at will by the Governor in Council if the licensee neglects to comply with any of the conditions imposed with regard to the supply and distribution of power in Canada; that the Governor in Council may make regulations for giving effect to the objects and intention of the Act.

By Order in Council of the 4th November, 1907, regulations (a copy of which is also hereto appended) were established to give effect to the Act. Under these regulations licences to export electrical energy must be applied for on or before the 1st day of April of each year, and are, therefore, valid only for one year. It is further ordered that any licence issued shall be revocable at will by the Governor in Council if the licensee neglects to comply with any of the conditions from time to time imposed by the Governor in Council with regard to the supply and distribution of electrical energy in Canada; and, moreover, that whenever such electrical energy is required for the use of purchasers in Canada any such licence shall be revocable upon such notice to the licensee as the Governor in Council deems reasonable in each case.

Under established procedure the licences granted have invariably directed attention to the fact that they were granted by virtue of The Electricity and Fluid Exportation Act and the regulations made thereunder, and for some years past have expressly pointed out that as they were granted for only one year licensees must not enter into any contract which they would be unable to fulfil if the licence should not be renewed or if the Act, or the regulations made thereunder, should be changed. A copy of the form of licence presently authorized and used is also hereto appended.

The effect of these laws and the procedure is clear, and it must be abundantly apparent what the object of this Government has been and is. Power or energy generated from streams in Canada has been, as it must be, regarded primarily as a natural resource of the country to be developed and utilized to the utmost possible extent for the benefit of the country. And it was recognized that while it was consistent with that view to permit exportation so long as the demand in Canada for power should not be sufficient to absorb the whole production, yet it could be permitted only in such manner and on such terms as did not conflict with the ultimate necessity of securing and preserving this

natural resource for the use of the people of Canada if and when needed by them.

In view of this object clearly embodied in the laws and regulations referred to, it seems hardly necessary to point out that the securing of a licence each year, so far from being a matter of mere "form", is one of substantial significance. Nor can it be admitted that, by reason of the existence of industries elsewhere which have used electrical energy exported from Canada, there has been created a condition or status which in any way involves an obligation on the part of this Government to permit a permanent diversion of this natural resource from the country. For it is the fact that all electrical energy exported from Canada has been exported only by virtue of The Electricity and Fluid Exportation Act and the regulations made in pursuance of it; and not only are these, as laws of the Dominion of Canada, within the notice of those interested, but the Minister is advised that it has been the invariable practice of the officers administering the Act to inform licensees that they should notify all persons, with whom they might enter into contracts to supply electrical energy, of the terms and conditions imposed by the Act and the regulations, and that in fact all such persons have been so notified. Their use of the electrical energy has, therefore, been subject to and in full recognition of the contingency contemplated by the Act as above pointed out.

But though it is impossible to accept the suggestion, if indeed such a suggestion is intended, that anything in the nature of a vested right has been acquired, it is nevertheless recognized that many consumers who have been using Canadian exported electrical energy may have placed themselves and their business activities in such a relation to this supply of energy that any sudden, complete cessation of it would entail great inconvenience and possible hardship. This is, of course, a consideration which should receive every respect consistent with the duty of this Government ultimately to secure for this country the best benefits of the natural resources appertaining to it. The regulations established to give effect to The Electricity and Fluid Exportation Act themselves provide that in the event that the exported electrical energy is required for the use of purchasers in Canada licences shall be revocable only upon reasonable notice. In accordance with the spirit of this provision, and it need scarcely be added, with every desire and intention to avoid anything that could be regarded elsewhere as an arbitrary exercise of power, the most careful consideration is being given to the question of the terms and notice on which the undoubted right of this Government to terminate at any time the exportation of electrical energy may best be exercised so as to entail the least possible inconvenience to those concerned.

And while the effect and intention of the laws and regulations above referred to are apparent from their face and neither need nor

will have gained anything from re-statement, yet Your Royal Highness' Advisers are desirous that no injury or hardship should accrue through a misapprehension on the part of the consumers who have used or hereafter will use electrical energy exported from Canada, however unfounded that misapprehension may be.

The Committee, therefore, advise on the recommendation of the Right Honourable the Secretary of State for External Affairs, that a copy of this Minute, if approved, be forwarded to His Majesty's Ambassador at Washington with the request that he make representations to the United States Government in the sense thereof in order that the matter may properly be brought to the attention of whatever persons or interests are concerned.

All of which is respectfully submitted for approval.

RODOLPHE BOUDREAU

Clerk of the Privy Council.

No. 55.

*An Act Respecting the Export of Hydro-Electric Power,
Enacted by the Legislature of Quebec, March 24 1926.*

CHAPTER 26

Preamble. An Act respecting the exportation of hydro-electric power.

[Assented to, the 24th of March, 1926]

Whereas the Province contains numerous waterfalls suitable for the development of electric power;

Whereas, by industrial development and the increase in domestic needs, the application of electric power is becoming more considerable every day;

Whereas coal, oil, wood and other fuel are daily becoming more difficult to obtain and more expensive;

Whereas the industrial, commercial and economical development of the Province indicate that in the near future all the water-powers which are the most accessible and the least costly to operate will be utilized;

Whereas once exportation of electric power is permitted, it can seldom be stopped or suspended without giving rise to serious difficulties;

Whereas it is in the best economical interests of the Province, for the promotion of its industry and commerce, to attract capital and create industrial centres therein in which workmen would find employment, thereby stopping emigration, and in which farmers would find markets for their produce;

Whereas the prohibition to export electric power in the cases hereinafter determined will constitute an important factor to assist in attaining these objects, and it is therefore, expedient to enact provisions to that effect;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. Every sale, lease, or grant whatsoever of water-powers, belonging to the Province or in which it has rights of ownership or other rights, made on or after the 24th of March, 1926, shall contain a clause prohibiting the exportation, outside of Canada, of the electric power which may be developed in this Province.

Clause prohibiting exportation of electric power.

2. Every contract, permit or grant authorizing, from Idem. and after the same date, the installation or passage of transmission lines, in or over the Crown domain, shall likewise contain a similar prohibitive clause.

3. Every authorization given by the Quebec Public Service Commission, under the acts concerning it, shall be subordinated and subject to the prohibition enacted by the above sections 1 and 2.

Authorization of Pub. Serv. Comm. subject to prohibition.

4. Every violation of the provisions of this act shall render null and void, at the demand of the Crown, any sale, grant or contract, or any lease or permit, made or granted by it.

Violation entails nullity.

5. The provisions of this act shall apply:

Provisions applicable.

a. To existing contracts, unless reported to the Minister of Lands and Forests, within three months after the coming into force of this act; and

b. To any renewal of such contracts, at the expiration of the term for which they were made.

6. This act shall come into force on the day of its sanction.

Coming into force.

No. 56.

An Act respecting the export of hydro-electric power, enacted by the legislature of Quebec, April 13, 1933

CHAPTER 20

An Act respecting the exportation of hydro-electric power
(Assented to, the 13th of April, 1933)

His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

Suspension
of prohibition
to export
electric
power.
Proviso.
Coming
into force.

1. Notwithstanding any provision prohibiting the exportation, outside of Canada, of electric power, contained, under section 1 of the act 16 George V, chapter 26, in a sale, lease or grant respecting water-powers belonging to the Province or in which it has rights of ownership or other rights, the Lieutenant-Governor in Council may for the period or periods of time that he may fix and on such terms and conditions as he may determine, suspend the effect of such prohibition; provided, however, that the quantity of electric power, the exportation whereof may be thus authorized, shall not exceed in all three hundred thousand horse-power, and provided also that the sale price of the electric power so exported be not below that for which it is sold in the Province of Quebec.

2. This act shall come into force on the day of its sanction.

No. 57.

Bill 15, "An Act to amend the Electricity and Fluid Exportation Act" (Exportation of Electric Power); as passed by the House of Commons, February 21, 1929.

(Note: This Bill was not passed by the Senate.)

3rd Session, 16th Parliament, 19 George V, 1929

THE HOUSE OF COMMONS OF CANADA

BILL 15

An Act to amend the Electricity and Fluid Exportation Act
(Exportation of Electric Power)

R.S., c. 54.

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section five of the *Electricity and Fluid Exportation Act*, chapter fifty-four of the Revised Statutes of Canada,

1927, is hereby repealed, and the following is substituted therefor:—

“5. No person shall export any power without approval of Parliament or on any terms or conditions other than those approved by Parliament. ^{Export of power.}

Provided nothing herein contained shall be deemed to affect the right of the Governor in Council to renew or cancel wholly or in part any licence for the exportation of power issued before the first day of January, 1929.

Provided also that the Governor in Council may grant licences, or may authorize an increase in the amount of surplus power to be exported under existing licences, in cases of temporary emergency.

“(2) No person shall export any fluid without a licence, or in excess of the quantity permitted by his licence, or otherwise than as permitted by such licence. ^{Export of fluid.}

“(3) No person shall, without the approval of Parliament, construct or place in position any line or wire or other conductor for the exportation of power, and no person shall without a licence construct or place in position any pipe line or other like contrivance for the exportation of fluid: Provided that nothing herein contained shall prevent the repair, alteration or reconstruction of any line or works required for the exportation of power permitted by any licence issued hereunder.”

APPENDIX

REPORT OF THE CANADIAN NATIONAL ADVISORY COMMITTEE, 1928; NIAGARA CONVENTION AND PROTOCOL, 1929 AND ST. LAWRENCE DEEP WATERWAY TREATY, 1932, BETWEEN CANADA AND THE UNITED STATES (SIGNED BUT NOT RATIFIED).

REPORT OF THE CANADIAN NATIONAL ADVISORY COMMITTEE, 1928

NATIONAL ADVISORY COMMITTEE, ST. LAWRENCE WATERWAY

The Right Honourable

OTTAWA, ONT., January 11, 1928.

W. L. MACKENZIE KING, C.M.G., M.A., LL.B., LL.D.,

Prime Minister,

Ottawa, Ont.

SIR,—The Committee appointed by Order in Council on May 7, 1924, to advise the Government on the broad aspects of the question of improving the St. Lawrence waterway, so as to provide increased facilities of navigation between the Great Lakes and the sea, has given careful consideration and much thought to the problem, and has the honour to submit the following general conclusions:

(1) We concur in the finding of the Joint Board of Engineers that the project is feasible, but we feel that, should the work be undertaken, proper allowance should be made for future requirements, and, inasmuch as the depth contemplated for the locks of the proposed scheme is 30 feet on the sills, we would recommend that the navigable depth of the reaches and connecting channels throughout should not be restricted to 25 feet, as contemplated by the engineering report. In the language of the report itself, we feel that any improvement of the St. Lawrence waterway should "provide to the best advantage, at this time and ultimately, for the development of the capacities and possibilities of the waterway." With this in mind, we have considered whether the depth should not be a uniform one of 30 feet, but, having regard to the statement in paragraph 111 of the report of the Joint Board of Engineers that the majority of the Canadian section favour initial excavation to a depth of 27 feet (accommodating vessels of 25-foot draft), we are of opinion that a depth of 27 feet should be sought. We are strengthened in that view by the recommendation of the United States St. Lawrence Commission of a 25-foot draft, which means a 27-foot navigation. This United States recommendation is based on the conclusions reached, after elaborate study by the United States Department of Commerce, to the effect that

"In order to assure proper ocean connection, the minimum depth of channels should be 27 feet, thus accommodating vessels of 25-foot draft; such draft would include 54 per cent of American cargo vessels and 88 per cent of all our entrances and clearances.

It is felt that restricting operation to any less percentage of ocean-going vessels would materially detract from the usefulness of the proposed waterways."

An important consideration in this connection is the fact that it is much less costly to provide a proper depth at the outset of such an undertaking than to go over the work at a later date and deepen it.

(2) We have stated our belief that the project is feasible; whether it is desirable at this time is a question that has engaged our earnest consideration. The Order in Council appointing us, in addition to directing attention to the technical aspects of the problem, referred as well to its economic, financial and international phases. The economic aspects of the proposal were fully investigated by the International Joint Commission which went very exhaustively into the matter in 1921 and made a voluminous report in the course of which it was stated:

"As to the economic practicability of the waterway, the commission finds that, without considering the probability of new traffic created by the opening of a water route to the seaboard, there exists to-day, between the region economically tributary to the Great Lakes and overseas points as well as between the same region and the Atlantic and Pacific seabords, a volume of outbound and inbound trade that might reasonably be expected to seek this route sufficient to justify the expense involved in its improvement.

"It finds that, as between the American and Canadian sides of the tributary area, the former contributes very much the larger share of this foreign and coastwise trade, and in all probability will continue to do so for many years to come. The benefits to be derived from the opening of a water route to the sea will, therefore, accrue in much larger measure to American than to Canadian interests, though it is reasonable to assume that eventually the advantages may be more evenly distributed."

(3) We have carefully considered the financial aspects of the project. If it were seriously suggested that Canada should undertake to finance as a public undertaking the immense outlay that would be required even in the domestic section of the St. Lawrence, or assume one-half of the fresh financial obligations involved in the project as a whole, we would unhesitatingly recommend that no action be taken until such time as the Dominion shall have had opportunity to recover from the heavy financial burdens imposed by the war, by our railway obligations growing out of the war, and by the necessity, since the war ended, to find the large sums required for needed public works throughout the Dominion.

(4) We are of opinion, however, that an arrangement might be made which would make possible the undertaking at little, if any, public expense, so far as Canada is concerned. The St. Lawrence, between

Montreal and Lake Ontario, consists of a national and an international section, and with the exception of the Welland Canal, the international problem continues throughout to the head of the Lakes. We believe that the first concern of this Committee should be, and of the Government will be, the national aspects of the proposed undertaking, and we regard it as most desirable that the initial development take place in the purely domestic section of the river lying within the Province of Quebec. We believe that if a reasonable time were permitted in which to enable the resultant power to be economically absorbed the development of this national section would be undertaken by private agencies able and willing to finance the entire work, including the necessary canalization, in return for the right to develop the power.

(5) The Committee considers that the international section presents features of greater complexity. Concerning it, the engineers are not agreed as to whether a single-stage scheme or a two-stage scheme is the better plan of development and we think it greatly in the public interest that a further attempt be made to reconcile the varying views expressed in the report of the Joint Board. We believe also that proposals which would oblige a number of thriving Canadian communities on the St. Lawrence to live behind embankments at a lower level than the waterway should be very carefully examined. Another feature that should be safeguarded, in the consideration of the method of development to be adopted, is the control of the fluctuations of flow from Lake Ontario, which must be assured unless the interests of the purely national section and of the port of Montreal are to be left in an unsatisfactory position. A scheme is now presented, in the appendices to the report, which involves consideration of an alternative location of the upper works of the Canadian two-stage plan. There are a number of reasons, therefore, that would seem to call for a further consideration of the purely engineering features of the international section, in which connection it may be advisable to ask the Ontario Government to nominate one or more engineers to co-operate with the United States and Dominion engineers in the making of a further study of the question.

(6) The Committee has given careful thought to the financial side of the international situation. Canada has been engaged for upwards of a hundred years in improving the navigation of the St. Lawrence River both above and below Montreal, and across the Niagara Peninsula. The Dominion has expended 30 millions on the ship channel that has made ocean navigation on a large scale possible to the port of Montreal. The proposed St. Lawrence project will benefit by that expenditure. The Dominion has spent fifty millions on canals and channel improvements between Montreal and Lake Erie, in which improved navigation United States shipping has had equal use and advantage. Canada has to date spent 87 millions on the Welland Ship Canal. Hav-

ing regard to these vast expenditures on navigation works, certain of which, unlike United States works on the upper lakes, will be superseded by the proposed deepwater development of the St. Lawrence, we are of opinion that it would not be unreasonable to expect the United States to undertake the entire work, both for navigation and power, in the international section, and we are further of the opinion that even if the United States should do so the preponderance of outlay will have been with Canada. In support of this contention, the following figures are submitted, based on expenditures by both countries on the present through waterway, and on the estimated cost of the presently recommended scheme with 27-ft. navigation, a new American lock at Sault Ste. Marie of the same dimensions as proposed for the St. Lawrence shipway, and the development, on the St. Lawrence, of the power incidental to navigation:—

CANADA

Present works:

St. Lawrence ship channel..	\$ 30,000,000	
St. Lawrence and Welland canals..	50,000,000	
Lock at Sault Ste. Marie, Ontario..	5,560,000	\$ 85,560,000

Proposed works:

Welland ship canal..	115,600,000	
National section, St. Lawrence shipway, 27-ft. navigation and development of 949,300 h.p..	199,670,000	315,270,000
Total for Canada..		<u>\$400,830,000</u>

UNITED STATES

Present works:

Dredging St. Clair and Detroit rivers..	\$ 17,536,000	
Locks at Sault Ste. Marie, Michigan..	26,300,000	\$ 43,836,000

Proposed works:

International section St. Lawrence shipway, 27-ft. navigation and initial development of 597,600 h.p.. . .	\$182,157,000	
To complete development—additional power 1,602,000 h.p..	92,090,000	
Upper lake channels to 27-ft..	65,100,000	339,347,000
Total for United States..		<u>\$383,183,000</u>

From the foregoing it will be seen that even if consideration be restricted to the work presently under discussion, the United States might, in view of the preponderance of benefit to be derived from the opening of the waterway, well assume the construction of the dams, canals and power development of the International section, as well as the work of deepening the channels and improving navigation to a depth of 27 feet from Lake Erie to Lake Superior. For the same reasons which convince us that the development of the national section of the St. Lawrence should be entirely domestic, we feel that the Welland Ship Canal should continue to retain its purely Canadian complexion and be completed to whatever depth may ultimately be agreed upon, at the expense of Canada.

(7) As to the control and supervision of the works during construction, and operation and maintenance on completion, we are of opinion that all dams, embankments, power house substructures, water passages, gates and channel enlargements in the International section should be designed and constructed under the technical supervision of an international commission, which body might also be charged with full power, on completion, to supervise both maintenance and operation and to control and regulate the use of water at the power plants in the International section in order that such use may be prevented from creating conditions harmful to navigation in any part of the St. Lawrence, and in order that the operation of the various power plants be conducted with proper regard to the use of water at power plants in the lower or national section of the river. We feel, however, that locks and other navigation structures lying entirely within one country or the other can, on completion, be most advantageously maintained and operated by the usual Government agencies in the two countries.

(8) The Committee is cognizant of the fact that the plan of procedure herein outlined necessarily involves consideration of the problems of the province of Ontario from the standpoint of power supply during the interval between the development of the national section and of the international. We believe the situation justifies consideration of the present problem from the broad national standpoint by both the provinces concerned, and that in the national interests such arrangements should be made as will enable Ontario to secure her power requirements for eastern territory from the purely Canadian section of the river pending the development of the international reaches. We are of opinion that, in the light of the good understanding presently obtaining between the two provinces, this would not be difficult of arrangement, and that power could be thus secured at rates which will compare most favourably with present cost of Ontario power.

(9) In consideration of the economic aspect, we have given some thought to the question of possible export of power. As to that we would say that we are in complete accord with the feeling throughout Canada that export of power should not be permitted.

(10) We have considered whether the proposed waterway should be regulated and governed by treaties already in existence, or whether a new treaty should be negotiated, but feel that that is a matter which the Government would probably prefer to decide for itself. Therefore, we make no recommendation in that respect other than to express the conviction that in the event of a new treaty being negotiated, the United States should not be given any greater rights than obtain in existing treaties.

In conclusion, we would suggest that early opportunity be taken to reply to the overtures to Canada which the United States has made in

regard to the St. Lawrence project, and we are of opinion that Canada's reply should contain the general sense of the views herein expressed. We would add the suggestion that, in view of the delicacy of the international negotiations involved, it would be inadvisable that our report be made public until such time as, in the discretion of the Government, it might be published without prejudice to Canadian interests.

I have the honour to be,

Faithfully yours,

(Sgd.) W. E. FOSTER

Chairman.

OBSERVATIONS UPON THE REPORT OF THE CANADIAN NATIONAL ADVISORY
COMMITTEE, BY CERTAIN OF ITS MEMBERS

The undersigned, members of the Canadian National Advisory Board on the St. Lawrence Waterways Project, although in accord with many of the recommendations made by a majority of the members of the Board, regret their inability to concur in certain essential features of the report of the majority. They beg leave to respectfully submit their views and advice as follows:—

1. This project has been investigated by Mr. W. A. Bowden and by Col. Wm. P. Wooten, who submitted their report in 1921; after study of this report the International Joint Commission made its recommendations to the Governments of Canada and of the United States; the question was afterwards referred to a Joint Board of Engineers, comprising three Canadian and three American Engineers, which has submitted its report, dated November 16, 1926, and from which report the conclusions and figures hereinafter submitted have been drawn.

2. The project is of broad national importance to the whole of Canada in its relation to navigation, whilst affecting more particularly the provinces of Quebec and Ontario in its relation to the development and marketing of power.

TECHNICAL FEATURES

3. Geographic and physical conditions would indicate that the St. Lawrence River is the natural channel through which the vast territories tributary to the Great Lakes should find an outlet to the sea.

4. It would appear advisable to follow in their general outline the plans submitted by the Joint Board of Engineers, subject to such changes as further investigations may render desirable.

Differences of opinion exist between the Canadian section and the United States section of the Joint Engineering Board with regard to the best plan of development of the International Rapids Section. A reconciliation of these differences of opinion may be obtained by referring the matter back to the Joint Engineering Board, enlarged by the addition of two or more members. These new members would be selected having in mind their knowledge of the special conditions arising in the Province of Ontario and their general qualifications to advise upon the proper regulation of the St. Lawrence River, as these matters are amongst the important ones upon which the differences of opinion have developed.

In the Soulanges Section various alternative plans of improvement have been investigated. Having in view the most efficient power development in this section it may be considered advisable to cause additional investigations to be made in order to definitely establish whether the three-stage plan of development is the best or whether a two-stage plan of development at Pointe-a-Biron and Cascades might not be more profitable ultimately. The latter project would eliminate the second stage of development under the recommended plan and would avoid using the canal for both navigation and power purposes.

5. The recommendations of the Joint Engineering Board as to the depth of locks, canals and channels may be accepted as providing for the time being the necessary facilities to navigation, but should the United States Government desire to act upon the suggestions made by a number of its advisers and insist upon navigation channels *27 ft. in depth* instead of *25 ft. in depth* Canada may be justified in yielding on this point, inasmuch as the cost of securing this 27-foot navigation would be lower if carried out as part of the initial project, than it would be if this work were undertaken separately later on.

ECONOMIC FEATURES

6. The project should be considered having in mind:—

(a) That it is primarily for the improvement of navigation between the Great Lakes and the sea; (b) that the interests of navigation therein must remain paramount; (c) that the interests of navigation therein have and must retain an international character.

7. The United States will benefit from these improvements to navigation to a much larger extent than Canada will, on account of the population served and the tonnage available.

8. Canada should distinguish between *improvements wherein the interests of navigation predominate* (although power will be developed incidentally thereto) and which are meant to provide international facilities,—and *improvements wherein the power development is the principal object in view*, which power insofar as it belongs to Canada or is developed in the national sections should be considered as a strictly Canadian asset to be retained solely for the benefit of Canada.

9. Canada would not seem to be well advised to segregate this undertaking in sections, divided by geographic or national lines. Canada should retain its interest in the improvements pertaining to navigation from Lake Superior to Montreal and also its rights of supervision and control on the projected improvements throughout the Great Lakes and the International sections of the project. The navigable channels will be crossing the international boundary line several times and it would not seem proper that Canada should surrender to the United States the credit, responsibility and initiative of developing the Great Lakes and the St. Lawrence River outside of the Province of Quebec. These navigable waters are as much the property of Canada as of the United States. What may prove an important factor in the development of our Western provinces and of the Province of Ontario should not be left to the sole care and attention of the United States.

10. It would seem wholly desirable that power developed in the national sections and Canada's share of power developed in the International section be not exported, permanently or temporarily. The energy so produced should be retained permanently in Canada as being a very important factor in its development. Should large amounts of power be temporarily exported there would be strong possibilities of causes of friction developing with the United States when this power would be required for use in Canada.

11. In view of the large amounts of power which would ultimately become available for use in the Provinces of Quebec and Ontario, it would appear desirable that the Governments of the Provinces of Quebec and Ontario agree with the broad lines of the policy adopted by the Government of Canada. It would seem important that the co-operation of the Provincial Governments concerned be obtained in respect of the features of this project wherein power development is the predominating object. The collaboration of the Government of Canada and of the Provincial Governments concerned towards the realization of this project would be a potent factor in insuring its success.

FINANCIAL FEATURES

12. In considering this project, the carrying out of which will involve the expenditure of large sums of money, it is necessary to care-

fully take into account the financial position of Canada. The war debts and railway obligations will, for many years, weigh heavily on the Canadian taxpayer and throughout the country public works have to be undertaken from time to time to provide for urgent needs. Moreover, Canada has already built, at its own expense, an extensive system of canals, has improved navigation facilities in the St. Lawrence River below Montreal and is completing, at a cost to Canada of about \$116,000,000, the Welland Canal, which will connect Lakes Erie and Ontario. Should the new project be undertaken all *the present improvements between Lake Ontario and Montreal will be scrapped*, although they are now rendering good service and are capable of accommodating more traffic than is now available. It may be safe to assume that the beneficial results from this undertaking will accrue to a population of about 40 millions of people in an immensely wealthy country, the United States, whereas in Canada the population affected will, for the time being, not exceed 5 millions of people.

13. An outline of the basis upon which negotiations could be carried on between Canada and the United States is submitted. These suggestions have no claim at being exhaustive or final, but are intended merely to help visualize the extent of Canada's financial participation, under certain conditions which might be improved upon:—

Cost of providing 27-ft. navigation and of developing power incidental to the improvements for navigation:—

Great Lakes—

Connecting channels.. . . .	\$54,900,000
Sault Ste. Marie locks.. . . .	6,500,000
Compensating works.. . . .	3,700,000
	<hr/> \$ 65,100,000

Welland Canal.. . . .	115,600,000
Thousand Islands section.. . . .	1,532,000

International Rapids section:

Crysler Island—Two stage development 566,000 horse-power at upper stage and navigation through to Lake St. Francis	180,625,000
Lake St. Francis section.. . . .	1,330,000
Soulanges section—First stage—382,000 horse- power.. . . .	105,210,000
Lachine section.. . . .	55,839,000
Channel enlargements below Montreal.. . . .	32,000,000

Total estimated cost.. . . . \$557,236,000

This expenditure of say \$560,000,000 would provide 27-ft. navigation from the Great Lakes to the sea and incidentally, through the improvements to navigation, there would become available 566,000 horse-power in the International Rapids section and 382,000 horse-power in the Soulanges section.

The apportionment of this expenditure *two-thirds for United States* and *one-third for Canada* would seem to be a generous contribution by Canada. On this basis the cost would be:—

To the United States..	\$374,000,000
To Canada..	186,000,000

Canada would be credited with the amounts already expended:—

On the Welland Canal.....	\$ 85,000,000
On improvements below Montreal...	32,000,000
	<hr/>
	\$117,000,000

Canada would have to spend an additional amount of \$69,000,000 for which Canada would have 665,000 horse-power fully developed and installed. This amount of power distributed 283,000 horse-power in the Province of Ontario and 382,000 horse-power in the Province of Quebec should be readily disposed of under conditions that would relieve the Federal Treasury of any further burden in connection with the capital cost of the whole undertaking.

It should be noted that in this set-up the United States are asked to take their *two-thirds share* of the expenditure of \$105,210,000 in the Soulanges section, whereas improvements for navigation alone could be carried out at a cost of \$40,000,000. This would make a difference against the United States of \$43,474,000. On the other hand, Canada is assuming in the International Rapids section, on account of navigation improvements, a substantial share of the cost which will accrue to the benefit of power development which Canada may not be in a position to utilize for many years to come. Additionally, Canada is assuming *one-third* of the expenditure on the Great Lakes improvements, whereas, if the expense was divided on the basis of tonnage of the two countries Canada's proportion would probably be 1 for Canada to 15 for the United States. This represents a difference of \$17,360,000 against Canada. If we take into account that Canada would assume the cost of operation of the Welland, Soulanges and Lachine canals and the future capital and operating costs of the St. Lawrence channels below Montreal it would not seem unreasonable to include in the cost of navigation works in the Soulanges section the cost of power development incidental thereto and to adopt the *two-thirds* to the United States and *one-third* to Canada basis of apportionment.

POWER DEVELOPMENT

14. Canada would then be in a position to secure as and when needed the following:—

(a) In the International Rapids Section:—

Half of the power remaining in this section, that is 756,000 horse-power at a cost of \$46,000,000, which is half the total cost estimated at \$92,000,000. The power so developed would cost about \$60 per horse-power, capital value, and prove to be a decidedly profitable and desirable asset.

It should be noted, however, that in all probability this amount of 756,000 horse-power will not be required for Canadian use for some years. On the other hand, it is possible that the United States may desire to secure in the near future their share, amounting to 756,000 horse-power. In such a case, it would appear reasonable that an understanding be arrived at between Canada and the United States whereby the United States would undertake to build at Barnhart Island, at their own expense, all the dams, dykes and substructures necessary for the eventual full development. When and as Canada is ready to use its share of the power, in whole or in part, it will then build its own power-house and install the necessary machinery at its own expense and will then reimburse the United States the cost of the dams, dykes and substructures, *without interest*, in the proportion that the successive installations made by Canada bear to the total power capacity. Such an arrangement would entail no hardship on the United States and could not be considered unfair, because Canada cannot be reasonably expected to develop power before it is in a position to utilize it, and, additionally, because the total cost to the United States of developing fully its own 756,000 horse-power and of providing all structures which will be availed of later by Canada will work out at a very reasonable capital cost per horse-power and would enable the United States to secure its share of the hydro-electric energy under very favourable conditions.

(b) In the Soulanges Section:—

1. Through the second stage of development 500,000 horse-power less 12,000 horse-power placed out of commission, at a cost of \$37,000,000, which works out to about \$76 per horse-power capital value, a very profitable and valuable asset.

2. Through the third stage of development, 974,000 horse-power less about 230,000 horse-power put out of commission, representing a net amount of about 744,000 horse-power, estimated to cost \$64,000,000, being \$86 per horse-power capital cost, again a very valuable asset.

(c) In the Lachine Section:—

1. Through the first stage development, 391,000 horse-power at an estimated cost of \$81,247,000, which would represent \$210 capital cost per horse-power.

2. Through the second stage development, 422,000 horse-power less about 12,000 horse-power put out of commission, leaving a net amount of 410,000 horse-power estimated to cost \$42,000,000 being about \$100 capital cost per horse-power.

It seems evident that in this section the first and second stages of development should be considered together, giving a total of 810,000 horse-power at an average cost of about \$154 capital value per horse-power. Power development in this section should await conditions which would render this expenditure profitable. The relatively higher cost per horse-power in this section would be partly compensated by its proximity to a large industrial centre, Montreal.

CONSTRUCTION AND OPERATING FEATURES

15. The work connected with the carrying out of the projected improvements for navigation (with power incidentally developed thereby) situated in Canadian territory, which of course includes the Welland Canal, should be placed or left under the direction and control of the Government of Canada or of a Canadian Board or Agency.

16. Work in United States territory, such as the Sault Ste. Marie and International rapids locks and canals, should be placed or left under the direction and control of the Government of the United States or of a United States Board or Agency.

17. Work in the international channels and sections should be placed under the direction and control of an international Board or Agency, upon which Canada and the United States would have equal representation.

18. The operation and maintenance of the various navigation improvements lying wholly in one country should be placed in charge of the country in which the same are situated.

19. As regards the power developed incidentally to the improvements to navigation in the International rapids sections, it would seem desirable to have each country operate its power works but should this be found impracticable, then same should be placed under the control and direction of an international board upon which Canada would have equal representation with the United States.

GENERAL FEATURES

20. The treaty entered into between Canada and the United States in pursuance to this project would clearly acknowledge the full and uncontrolled jurisdiction of Canada over any and all sections and parts of this undertaking lying wholly in Canadian territory and vice-versa. Both countries would grant one another the reciprocal customary safe-

guards as regards maintenance, operation, right of usage, apportionment of capital expenditure for all the improvements to navigation (with power incidental thereto).

21. This treaty, as regards the international navigation features of this project, should extend no further or greater rights than those now assured to the United States under existing treaties.

22. The understanding and agreement between Canada and the United States under this treaty would cover the necessity, in the interests of all concerned, of preserving the full potential value of the Great Lakes and St. Lawrence watershed for navigation and power purposes.

23. It would appear of great importance that the Crown retain permanently its proprietary rights in all the improvements connected with this vast undertaking and pertaining to both navigation and power development. It is not difficult to visualize the immense value to Canada of retaining the control and disposal of such a large amount of hydro-electric energy admirably situated and which may be advantageously developed. In respect of an undertaking of this magnitude, which may insure the prosperity of many generations of Canadian citizens, the permanent ownership of this great Canadian heritage should not be surrendered to private interests but the operation of the power works developed by such a project could be leased or farmed out, under conditions to be studied and determined.

24. In the opinion of the undersigned, the project is feasible and practicable and may be proceeded with when the important economic and financial questions involved in such an undertaking, a few of which are outlined in the preceding paragraphs, have been satisfactorily dealt with.

Respectfully submitted:

(Signed) BEAUDRY LEMAN

I concur in the above,

(Signed) ADELARD TURGEON

MONTREAL, January 18, 1927.

NIAGARA CONVENTION AND PROTOCOL

Signed at Ottawa, January 2, 1929

(Not ratified.)

CONVENTION

His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India,

And the President of the United States of America;

Considering that a Special International Niagara Board was established in 1926 by the Government of the Dominion of Canada and the Government of the United States to study and submit to the two Governments a report upon certain questions relating to the Niagara Falls and the Niagara River, more particularly the questions how the scenic beauty of the Niagara Falls and Rapids could be best maintained, by what means and to what extent the impairment thereof by erosion or otherwise might be overcome or prevented, and what quantity of water might consistently therewith be diverted from the river above the Falls;

And that on the fourteenth day of December, 1927, the said Special International Niagara Board submitted to the two Governments an interim report recommending the construction of certain works in the Niagara River for the preserving and improving the scenic beauty of the Falls and Rapids;

And considering that Article 5 of the treaty with respect to the boundary waters between Canada and the United States, concluded between His Majesty and the United States of America, on January 11th, 1909, limits the quantity of water which may be withdrawn from the Niagara River above the Falls;

And that the Special International Niagara Board considers it desirable to make temporary diversions of water from the Niagara River above the Falls in excess of those permitted by Article 5 of the treaty of 1909, as a means of observing and testing the efficacy of the proposed works under widely varying conditions;

Have deemed it necessary to preserve and improve the scenic beauty of the Niagara Falls and Rapids, and to that end to adopt the recommendations of the said Special International Niagara Board, and have resolved to conclude a Convention, and for that purpose have appointed as their respective Plenipotentiaries:

His Britannic Majesty, for the Dominion of Canada: The Right Honourable William Lyon Mackenzie King, Prime Minister and Secretary of State for External Affairs; and

The President: The Honourable William Phillips, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Canada;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I

The High Contracting Parties agree that remedial works shall be constructed in the Niagara River above the Niagara Falls, designed to distribute the waters of the river so as to ensure at all seasons unbroken crestlines on both the Canadian and the American Falls and an enhancement of their present scenic beauty.

ARTICLE II

Concurrently with the construction and tests of the remedial works and as a temporary and experimental measure, diversions of the waters of the Niagara River above the Falls from the natural course and streams thereof additional to the amounts specified in Article 5 of the Boundary Waters Treaty of January 11th, 1909, may be permitted to the extent and subject to the conditions hereinafter provided:

(1) The additional diversions shall be permitted only within the period beginning each year on the first day of October and ending on the thirty-first day of March of the following year, both dates inclusive.

(2) The additional diversion to be permitted within the State of New York shall not exceed in the aggregate a daily diversion at the rate of ten thousand cubic feet of water per second.

(3) The additional diversion to be permitted within the Province of Ontario shall not exceed in the aggregate a daily diversion at the rate of ten thousand cubic feet of water per second.

(4) The provisions of this Article shall terminate seven years from the date of the initial additional diversion authorized under this Convention.

ARTICLE III

The present Convention shall be ratified by His Britannic Majesty in accordance with constitutional practice, and by the President of the United States of America by and with the advice and consent of the Senate thereof. The ratifications shall be exchanged at Ottawa as soon as possible and the Convention shall take effect on the date of the exchange of ratifications.

IN FAITH WHEREOF the respective Plenipotentiaries have signed this Convention in duplicate and have hereto affixed their seals.

Done at Ottawa on the second day of January in the year of Our Lord One Thousand Nine Hundred and Twenty-Nine.

(L.S.) W. L. MACKENZIE KING

(L.S.) WILLIAM PHILLIPS

PROTOCOL

At the moment of signing the Convention between His Majesty and the United States of America for maintaining the scenic beauty of the Niagara Falls and Rapids in accordance with the recommendations of the Special Niagara Board in its interim report dated the 14th day of December, 1927, as referred to in the preamble to the Convention, the undersigned Plenipotentiaries have agreed as follows:—

1.

The construction of the remedial works contemplated in the Board's interim report and authorized in Article I of the Convention, the provision for the cost and for the control thereof, as well as the control of the diversions of water authorized in Article II of the Convention shall be carried out in accordance with the recommendations of the Special International Niagara Board as set forth in its report dated the 3rd day of May, 1928, forwarding to the two Governments a joint proposal, dated the 9th day of April, 1928, made by the Hydro-Electric Power Commission of Ontario, and the Niagara Falls Power Company of Niagara Falls, New York, which report and proposal are set out in the annex hereto.

(L.S.) W. L. MACKENZIE KING

(L.S.) WILLIAM PHILLIPS

APPENDICES (ANNEX)

I

COVERING REPORT BY SPECIAL INTERNATIONAL NIAGARA BOARD
SUBMITTING PROPOSALS OF THE HYDRO-ELECTRIC POWER
COMMISSION OF ONTARIO AND THE NIAGARA FALLS POWER
COMPANY IN RESPECT TO PROPOSED REMEDIAL WORKS AT
NIAGARA FALLS*May 3, 1928*

To the Honourable the Minister of the Interior,
Ottawa, Canada.

and

To the Honourable the Secretary of State,
Washington, D.C.

1. Upon April 16, 1928, the Special International Niagara Board of Control received a joint letter from the Hydro-Electric Power Commission of Ontario and The Niagara Falls Power Company of New York which contains a proposal by the Commission and the power Company to construct at their own expense the remedial works at Niagara Falls recommended by the Board in its interim report submitted upon December 14, 1927. The proposal includes certain conditions, the controlling one being that the Commission and the Company shall be permitted to divert and use for power purposes certain additional quantities of water during the non-tourist season from October 1 to March 31. The joint letter is transmitted herewith, with the following comments and recommendations:

2. The works proposed to be built are those recommended by the Board in its interim report. They are urgently needed to restore and enhance the scenic effects at the Falls. If constructed according to the general plans which accompany the joint letter, modified in detail during construction to secure the exact effects desired, the works will materially improve present scenic conditions and will demonstrate beyond doubt whether the normally injurious effects of additional power diversions can be neutralized by the use of such works.

3. The diversion of additional quantities of water during construction of the works is necessary as a means of securing the exact scenic effects desired. The continuation of such diversions for a short period of years after the completion of the works is desirable to enable the effects of the works to be observed under a wide range of conditions and to enable the Commission and the Company to recover the considerable

sums which they will expend in the construction of the work. Continuation of the temporary additional diversions longer than necessary to accomplish these two purposes is undesirable, as the water so used would be productive of only a part of its potential power whereas any permanent additional diversion which may be found practicable should be permitted only under conditions of complete utilization. That is, use of water in the old plants proposed to be used for the temporary diversion should be permitted only so long as necessary to enable a determination to be reached as to whether permanent additional diversions are permissible and to accomplish the international steps necessarily preliminary to the construction of modern plants. The Board considers the period of seven years sufficient to accomplish all of these purposes, and has incorporated this change, with a few others of a minor nature, into the draft of conditions proposed by the Commission and the Company.

4. It is recommended that the joint proposal of the Commission and the Company to construct the remedial works be accepted, subject to the following conditions and understandings:—

- (1) Detailed plans, designs, methods of construction and sequence of operations shall be prepared by the Commission and the Company and submitted to the Board for its approval within three months after notice of acceptance of this proposal. Modification of details, as the work progresses, shall be made as directed by the Board.
- (2) The Commission and the Company shall secure from all Federal, Dominion, State and Provincial authorities, whose consent is required by law, the necessary permits for the construction of the proposed works. The Board will use its best efforts to assist the Commission and the Company in obtaining the said permits.
- (3) Construction of the proposed works on the flanks of the Horseshoe Falls shall be commenced not later than 90 days after receipt by the Commission and the Company of the approval of the Board and all other governmental authorities, and, subject to any interruption occasioned by governmental authority, shall be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.
- (4) Construction of the proposed weir in the Grass Island Pool shall be commenced at such time as may be directed by the Board after completion of the works on the flanks of the Horseshoe Falls and after receipt by the Commission and Company of the approval of the designs of the weir by the Board and all governmental authorities, and, subject to any interruption

occasioned by governmental authority, shall be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.

- (5) To permit observation of the effects of remedial works, after a substantial beginning shall have been made upon the works on the flanks of the Horseshoe Falls the amount of water which under the International Treaty may be diverted for power from the Niagara River above the Falls on each side of the river shall be increased by an amount not exceeding in the aggregate a daily diversion at the rate of 10,000 cubic feet of water per second during the non-tourist season from October 1 to March 31, inclusive, yearly.
- (6) The Board shall have complete supervision and control over the additional waters permitted to be diverted, with power to diminish or suspend such additional diversions.
- (7) If, upon completion of said remedial works, the withdrawal of the additional 20,000 cubic feet per second or some part thereof shall not, in the opinion of the Board, appreciably affect the scenic value of the Falls and the integrity of the river, it is understood that diversions for observation purposes, referred to under section (5) hereof, may be continued only so long, not exceeding seven years from date of beginning field construction, as may be necessary to enable negotiations to be undertaken and concluded for the modification of the present International Treaty so as to permit permanent additional diversions of such amounts as may then be agreed upon.
- (8) After construction of the works herein specified, they shall be considered as parts of the bed of the Niagara River and subject to the same ownership and control as those parts of the river in which they have been constructed.

5. It is understood that where the present "International Treaty" is referred to in the foregoing, the Boundary Waters Treaty of 1909 is intended, and that where the "Board" is referred to, the Permanent International Niagara Board of Control, appointed by the two governments in 1923 to insure the proper observance of the provisions of Article V of the said Treaty, is intended. This Board would act in such matters as approval of detailed plans and direct supervision of the work.

6. It is recommended, however, that the Special International Niagara Board, appointed by the two Governments in 1926 to investigate and determine how the scenic beauty of Niagara Falls and Rapids can best be maintained, shall, throughout the period of the construction of the works herein provided for, pass upon all scenic effects resultant from the construction of such works.

(Sgd.) DEWITT C. JONES

(Sgd.) J. T. JOHNSTON

DEWITT C. JONES,

J. T. JOHNSTON, C.E.,

Major, Corps of Engineers, U.S. Army, Canadian Member
 United States Member Special International Niagara Board.
 Special International Niagara Board.

(Sgd.) J. HORACE MCFARLAND (Sgd.) CHARLES CAMSELL

J. HORACE MCFARLAND, L.H.D.,

CHARLES CAMSELL, LL.D., F.R.S.,

United States Member

Canadian Member

Special International Niagara Board. Special International Niagara
 Board.

Dated the 3rd of May, 1928.

II

PRESERVATION OF NIAGARA FALLS

JOINT PROPOSALS OF THE HYDRO-ELECTRIC POWER COMMISSION
 OF ONTARIO AND THE NIAGARA FALLS POWER COMPANY
 OF NEW YORK IN RESPECT TO THE CONSTRUCTION OF REME-
 DIAL WORKS AT NIAGARA FALLS

*April 10, 1928**April 9, 1928.*

To the Special International Niagara Board:

SIRS:—In view of the conclusions contained in your Interim Report of December 14, 1927, the undersigned, the Hydro-Electric Power Commission of Ontario, of Toronto, Ontario (hereinafter called the Commission), and The Niagara Falls Power Company, of Niagara Falls, New York (hereinafter called the Company), jointly, submit the following for your consideration and for the consideration of the Governments of the United States and Canada.

In this report you have recommended certain initial remedial measures which might with advantage be undertaken at Niagara Falls in the immediate future. Submerged weirs, with incidental excavation to improve the flow over the flanks of the Horseshoe Falls, and a submerged weir in the Grass Island Pool to raise the level of the pool and increase the flow over the American Falls are specified. Because such accomplishment will mean an early and most material enhancement of the scenic beauty of the Falls in the interests of more than two million visitors annually, early construction of these works is recommended in your report as highly desirable.

You point out, in paragraphs 41 and 42 of your report, that this initial construction will afford an opportunity to the Governments of the United States and Canada to test out in practice the effect of temporary additional withdrawals of water and the sufficiency of remedial

works to offset such withdrawals. It is stated that adequate facilities for additional water passage can be provided in the existing power stations on both sides of the river to permit substantial additional withdrawals of water at such times and for such periods as will most effectively demonstrate the sufficiency of such remedial works.

The Commission and the Company have consistently followed the recommendations of their respective Governments in respect of scenic improvement along the Upper Niagara River and in the Gorge below the Falls. They are always willing to do their part in preserving the scenic effects of Niagara Falls and vicinity. They believe, moreover, that it is possible to divert more water for power purposes without impairing the scenic value of the Falls and the integrity of the River, and, within a relatively short time, to retard the recession of the Horseshoe. They concur in your view that its crest can be completely covered with water in such a manner that its appearance will be appreciably enhanced and that no more effective demonstration of the efficacy of remedial works is possible than that provided by direct observation of the Falls themselves.

The facilities for additional temporary withdrawals of water through existing power stations of the Commission and the Company are sufficient to utilize a daily diversion from above the Falls of Niagara at the rate of 20,000 cubic feet per second in addition to the daily diversion at the rate of 56,000 cubic feet per second now permitted and diverted under the Boundary Waters Treaty of 1909. The additional water so diverted may be put to beneficial use in the generation of power to be supplied to customers in the territories within the Province of Ontario and the State of New York, now served by Niagara power.

Under these circumstances, the Commission and the Company jointly have prepared the drawings attached hereto, marked A, B and C, showing works in the Niagara River which it is believed conform to the recommendations of your Board in its Interim Report dated December 14, 1927. A description of such works and estimates of cost are also attached hereto. The Commission and the Company have available construction forces and plant which they believe will enable them to construct such works efficiently, quickly, and at minimum expense.

In view of the foregoing, the Commission and the Company hereby jointly offer to construct, at their own expense, the initial remedial works shown on the said drawings, subject to the following conditions:—

- (1) Detailed plans, designs, methods of construction and sequence of operations will be prepared by the Commission and the Company and submitted to the Board for its approval within three months after notice of acceptance of this proposal. Modification of details, as the work progresses, will be made as directed by the Board.

- (2) The Board will use its best efforts to assist the Commission and the Company to obtain from all Governmental authorities, whose consent is required by law, the necessary permits for the construction of the proposed works.
- (3) Construction of the proposed works on the flanks of the Horseshoe Falls will be commenced not later than ninety days after receipt by the Commission and the Company of the approval of the Board and all other Governmental authorities, and, subject to any interruption occasioned by Governmental authority, will be completed within two years after commencement except for such reasonable extensions of time as may be granted by the Board.
- (4) Construction of the proposed weir in the Grass Island Pool will be commenced at such time as may be directed by the Board after completion of the works on the flanks of the Horseshoe Falls and after receipt by the Commission and the Company of the approval of the designs of the weir by the Board and all Governmental authorities, and, subject to any interruption occasioned by Governmental authority, will be completed within two years after commencement, except for such reasonable extensions of time as may be granted by the Board.
- (5) To permit observation of the effects of remedial works, after a substantial beginning shall have been made upon the works on the flanks of the Horseshoe Falls, the amount of water which, under the International Treaty, may be diverted for power purposes from the Niagara River above the Falls on each side of the river shall be increased by an amount not exceeding in the aggregate a daily diversion at the rate of 10,000 cubic feet of water per second during the non-tourist season from October 1st to March 31, inclusive, yearly.
- (6) The Board shall have complete supervision and control over the additional waters permitted to be diverted, with power to diminish or suspend such additional diversions.
- (7) It is understood that diversions for observation purposes referred to under Section (5) hereof, shall be discontinued upon six months' notice given by the Governments to the Commission and the Company after a period not less than ten years from the date of authorization.
- (8) The construction of the works herein specified shall not be considered as effecting any change in the existing ownership of or title to those parts of the bed of the Niagara River upon which they have been constructed.

This offer has been duly authorized by the Board of Directors of the Company and by the Commission, as appears by certified copies of their respective resolutions enclosed herewith.

If it meets with your approval, the Commission and the Company respectfully request your Board to transmit the above offer to the Government of the United States and the Government of Canada, for which purpose this letter is done in two original signed copies.

Respectfully submitted,

HYDRO-ELECTRIC POWER COMMISSION
OF ONTARIO

By (Sgd.) C. A. MAGRATH
Chairman.

Attest:

(Sgd.) W. W. POPE
Secretary.

THE NIAGARA FALLS POWER COMPANY

By (Sgd.) PAUL A. SCHOELLKOPF
President.

Attest:

(Sgd.) F. L. LOVELACE
Secretary.

RESOLVED that the Chairman of this Commission be, and hereby he is, authorized to execute and deliver and the Secretary of this Commission to attest the joint offer by this Commission and The Niagara Falls Power Company, of Niagara Falls, New York, to the Special International Niagara Board, in the form presented to this meeting.

DOMINION OF CANADA }
PROVINCE OF ONTARIO } ss
COUNTY OF YORK }

I, W. W. Pope, Secretary of the Hydro-Electric Power Commission of Ontario, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the Commission at a meeting of the said Commission held at the city of Toronto, Ontario, on the 11th day of April, 1928, at which meeting a quorum was present and acted. I do further certify that the document hereto attached is the joint offer referred to in said resolution and is in the form presented to the said Commission.

IN WITNESS WHEREOF, I have hereunto subscribed my name and set the Seal of the said Hydro-Electric Power Commission of Ontario.

(Sgd.) W.W. POPE
Secretary.

RESOLVED that the President of this Company be, and hereby he is, authorized to execute and deliver and the Secretary of this Company to attest the joint offer by the Hydro-Electric Power Commission of Ontario and this Company to the Special International Niagara Board, in the form presented to this meeting.

UNITED STATES OF AMERICA }
 STATE OF NEW YORK } ss
 COUNTY OF NIAGARA }

I, Frederick L. Lovelace, Secretary of The Niagara Falls Power Company, do hereby certify the foregoing is a true copy of a resolution duly adopted by the Board of Directors of the said Company at a regular stated meeting of the said Board, duly noticed for and held at the city of Buffalo, New York, on the 30th day of March, 1928, at which meeting a quorum was present and acted. I do further certify that the document hereto attached is the joint offer referred to in said resolution and is in the form presented to the said meeting of the Board of Directors.

IN WITNESS WHEREOF, I have hereunto subscribed my name and set the Corporate Seal of the said The Niagara Falls Power Company.

(Sgd.) FREDERICK L. LOVELACE

Secretary.

STATE OF NEW YORK }
 COUNTY OF NIAGARA } ss

Benjamin Klopp, a duly appointed and acting Notary Public for and in the county of Niagara and State of New York, hereby certifies that he has compared the within copy of letter dated the 9th day of April, 1928, addressed to the Special International Niagara Board signed by Paul A. Schoellkopf, President for The Niagara Falls Power Company, and by Charles A. Magrath, Chairman, for the Hydro-Electric Power Commission of Ontario, with the original thereof and that the within copy of letter is in all respects a true copy of said original and of the whole thereof.

(Sgd.) BENJAMIN KLOPP

Notary Public, Niagara County, N.Y.

ST. LAWRENCE DEEP WATERWAY TREATY

SIGNED AT WASHINGTON JULY 18, 1932

(Not ratified.)

His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of the Dominion of Canada, and the President of the United States of America,

Recognizing that the construction of a deep waterway, not less than twenty-seven feet in depth, for navigation from the interior of the Continent of North America through the Great Lakes and the St. Lawrence River to the sea, with the development of the waterpower incidental thereto, would result in marked and enduring benefits to the agricultural, manufacturing and commercial interests of both countries, and

Considering further that the project has been studied and found feasible by the International Joint Commission, the Joint Board of Engineers, and by national advisory boards, and

Recognizing the desirability of effecting a permanent settlement of the questions raised by the diversion of waters from or into the Great Lakes System, and

Considering that important sections of the waterway have already been constructed, and

Taking note of the declaration of the Government of Canada of its intention to provide, not later than the date of the completion of the deep waterway in the international section of the St. Lawrence River, for the completion of the New Welland Ship Canal, and of canals in the Soulanges and Lachine areas of the Canadian section of the St. Lawrence River which will provide essential links in the deep waterway to the sea, and

Taking note of the declaration of the Government of the United States of its intention to provide, not later than the date of the completion of the deep waterway in the international section of the St. Lawrence River, for the completion of the works in the Great Lakes System above Lake Erie which will provide essential links in the deep waterway to the sea,

Have decided to conclude a Treaty for the purpose of ensuring the completion of the St. Lawrence Waterway project, and for the other purposes aforesaid, and to that end have named as their respective plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, for the Dominion of Canada:

The Honourable WILLIAM DUNCAN HERRIDGE, P.C.,
D.S.O., M.C., His Envoy Extraordinary and
Minister Plenipotentiary for Canada in the
United States of America;

The President of the United States of America:

HENRY L. STIMSON, Secretary of State of the
United States of America;

Who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following Articles:

PRELIMINARY ARTICLE

In the present Treaty, unless otherwise expressly provided, the expression:

- (a) "International Joint Commission" means the commission established pursuant to the provisions of the Boundary Waters Treaty of 1909;
- (b) "Joint Board of Engineers" means the board appointed pursuant to an agreement between the Governments following the recommendation of the International Joint Commission, dated the 19th December, 1921, and the "final report of the Joint Board of Engineers" means the report dated the 9th April, 1932;*
- (c) "Great Lakes System" means Lakes Superior, Michigan, Huron, Erie and Ontario, and the connecting waters, including Lake St. Clair;
- (d) "St. Lawrence River" means the river known by that name and includes the river channels and the lakes forming parts of the river channels from the outlet of Lake Ontario to the sea;
- (e) "international boundary" means the international boundary between Canada and the United States of America as established by existing treaties;
- (f) "International Section" means that part of the St. Lawrence River through which the international boundary line runs and which extends from Tibbetts Point at the outlet of Lake Ontario to the village of St. Regis at the head of Lake St. Francis;
- (g) "Canadian Section" means that part of the St. Lawrence River which lies wholly within Canada and which extends from the easterly limit of the international section to the Montreal Harbour;

* The final report of the Joint Board of Engineers has been issued by the King's Printer, Ottawa, as a separate publication.

- (h) "Thousand Islands Section" means the westerly portion of the international section extending from Tibbetts Point to Chimney Point;
- (i) "International Rapids Section" means the easterly portion of the international section extending from Chimney Point to the village of St. Regis;
- (j) "Governments" means the Government of the Dominion of Canada and the Government of the United States of America;
- (k) "countries" means Canada and the United States of America.

ARTICLE I

With respect to works in the International Section, Canada agrees, in accordance with the project described in the final report of the Joint Board of Engineers,

- (a) to construct, operate and maintain the works in the Thousand Islands Section below Oak Point;
- (b) to construct, operate and maintain a side canal with lock opposite Crysler Island;
- (c) to construct the works required for rehabilitation on the Canadian side of the international boundary.

ARTICLE II

With respect to works in the International Section, the United States agrees, in accordance with the project described in the final report of the Joint Board of Engineers,

- (a) to construct, operate and maintain the works in the Thousand Islands Section above Oak Point;
- (b) to construct, operate and maintain a side canal with locks opposite Barnhart Island;
- (c) to construct the works required for rehabilitation on the United States side of the international boundary.

ARTICLE III

The High Contracting Parties agree to establish and maintain a temporary St. Lawrence International Rapids Section Commission, hereinafter referred to as the Commission, consisting of ten members, five to be appointed by each Government, and to empower it to construct the works in the International Rapids Section included in the project described in the final report of the Joint Board of Engineers (not included in the works provided for in Articles I and II hereof, and excluding the power-house superstructures, machinery and equipment required for the development of power) with such modifications as may be agreed upon by the Governments, out of funds which the United States hereby undertakes to furnish as required by the progress of the works, and subject to the following provisions:

- (a) that the Commission, in accordance with the provisions of Schedule A, attached to and made a part of this Treaty, shall be given the powers that are necessary to enable it to construct the assigned works;
- (b) that, in so far as is possible in respect to the works to be constructed by the Commission, the parts thereof within Canadian territory, or an equivalent proportion of the total of the works, shall be executed by Canadian engineers and Canadian labour and with Canadian material; and, in so far as is possible, the remaining works shall be executed by United States engineers and United States labour and with United States material; and the duty of carrying out this division shall rest with the Commission;
- (c) that the Parties may arrange for construction, in their respective territories, of such power-house superstructures, machinery and equipment as may be desired for the development of water-power;
- (d) that, notwithstanding the provisions of Article IX, the Commission shall be responsible for any damage or injury to persons or property resulting from construction of the works by the Commission, or from maintenance or operation during the construction period;
- (e) that, upon completion of the works provided for in this Article, the Parties shall maintain and operate the parts of the works situate in their respective territories.

ARTICLE IV

The High Contracting Parties agree:

- (a) that the quantity of water utilized during any daily period for the production of power on either side of the international boundary in the International Rapids Section shall not exceed one-half of the flow of water available for that purpose during such period;
- (b) that, during the construction and upon the completion of the works provided for in Article III, the flow of water out of Lake Ontario into the St. Lawrence River shall be controlled and the flow of water through the International Section shall be regulated so that the navigable depths of water for shipping in the Harbour of Montreal and throughout the navigable channel of the St. Lawrence River below Montreal, as such depths now exist or may hereafter be increased by dredging or other harbour or channel improvements, shall not be lessened or otherwise injuriously affected.

ARTICLE V

The High Contracting Parties agree that the construction of works under the present Treaty shall not confer upon either of the High Contracting Parties proprietary rights, or legislative, administrative or other jurisdiction in the territory of the other, and that the works constructed under the provisions of this Treaty shall constitute a part of the territory of the country in which they are situated.

ARTICLE VI

The High Contracting Parties agree that they may, within their own respective territories, proceed at any time to construct alternative canal and channel facilities for navigation in the International Section or in waters connecting the Great Lakes, and that they shall have the right to utilize for this purpose such water as may be necessary for the operation thereof.

ARTICLE VII

The High Contracting Parties agree that the rights of navigation accorded under the provisions of existing treaties between His Majesty and the United States of America shall be maintained, notwithstanding the provisions for termination contained in any of such treaties, and declare that these treaties confer upon the subjects or citizens and upon the ships, vessels and boats of each High Contracting Party, rights of navigation in the St. Lawrence River, and the Great Lakes System, including the canals now existing or which may hereafter be constructed.

ARTICLE VIII

The High Contracting Parties, recognizing their common interest in the preservation of the levels of the Great Lakes System, agree:

- (a) 1. that the diversion of water from the Great Lakes System, through the Chicago Drainage Canal, shall be reduced by December 31, 1938, to the quantity permitted as of that date by the decree of the Supreme Court of the United States of April 21, 1930;
2. in the event of the Government of the United States proposing, in order to meet an emergency, an increase in the permitted diversion of water and in the event that the Government of Canada takes exception to the proposed increase, the matter shall be submitted, for final decision, to an arbitral tribunal which shall be empowered to authorize, for such time and to such extent as is necessary to meet such emergency, an increase in the diversion of water beyond the limits set forth in the preceding sub-paragraph and to stipulate such compen-

satory provisions as it may deem just and equitable; the arbitral tribunal shall consist of three members, one to be appointed by each of the Governments, and the third, who will be the Chairman, to be selected by the Governments;

- (b) that no diversion of water, other than the diversion referred to in paragraph (a) of this Article, from the Great Lakes System or from the International Section to another watershed shall hereafter be made except by authorization of the International Joint Commission;
- (c) that each Government in its own territory shall measure the quantities of water which may at any point be diverted from or added to the Great Lakes System, and shall place the said measurements on record with the other Government semi-annually;
- (d) that, in the event of diversions being made into the Great Lakes System from watersheds lying wholly within the borders of either country, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall, notwithstanding the provisions of Article IV (a), be vested in the country diverting such waters, and the quantity of water so diverted shall be at all times available to that country for use for power below the point of diversion, so long as it constitutes a part of boundary waters;
- (e) that compensation works in the Niagara and St. Clair Rivers, designed to restore and maintain the lake levels to their natural range, shall be undertaken at the cost of the United States as regards compensation for the diversion through the Chicago Drainage Canal, and at the cost of Canada as regards the diversion for power purposes, other than power used in the operation of the Welland Canals; the compensation works shall be subject to adjustment and alteration from time to time as may be necessary, and as may be mutually agreed upon by the Governments, to meet any changes effected in accordance with the provisions of this Article in the water supply of the Great Lakes System above the said works, and the cost of such adjustment and alteration shall be borne by the Party effecting such change in water supply.

ARTICLE IX

The High Contracting Parties agree:

- (a) that each Party is hereby released from responsibility for any damage or injury to persons or property in the territory of the other, which may be caused by any action authorized or provided for by this Treaty;

- (b) that they will severally assume responsibility and expense for the acquisition of any lands or interests in land in their respective territories which may be necessary to give effect to the provisions of this Treaty.

ARTICLE X

This Treaty shall be ratified in accordance with the constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in Ottawa or in Washington as soon as practicable and the Treaty shall come into force on the day of the exchange of ratifications.

In faith whereof the respective plenipotentiaries have signed this Treaty in duplicate and have hereunto affixed their seals.

Done at the city of Washington the eighteenth day of July in the year of our Lord one thousand nine hundred and thirty-two.

W. D. HERRIDGE [L.S.]

HENRY L. STIMSON [L.S.]

SCHEDULE A

ST. LAWRENCE INTERNATIONAL RAPIDS SECTION COMMISSION

(a) The Commission, established under the provisions of Article III of this Treaty, shall function solely as an international commission established under, and controlled by, the terms of this Treaty. It shall not be subject, generally, to the legislative, to the executive or, except as hereinafter provided, to the judicial authorities in either country, but it shall be subject to this and to any subsequent agreement.

(b) The modifications referred to in Article III of this Treaty shall be regarded as effective when confirmed by an exchange of notes by the Governments.

(c) The Commission shall have power to establish orders, rules or by-laws, and such orders, rules or by-laws, together with any amendments, modifications or repeals thereof, shall be effective on confirmation by an exchange of notes by the Governments.

(d) The Governments shall be entitled to inspect the plans, proposals or works under construction, and to inspect and audit the books and other records of the Commission.

(e) In order to enable the Commission effectively to perform the duties imposed upon it by this Treaty, it is agreed that the appropriate authorities in the countries will take such action as may be necessary to confer upon the Commission the following capacities, powers and liabilities:

1. all such specific capacities, powers and liabilities as are reasonably ancillary to the establishment of the Commission and the duties and functions imposed upon it by this Treaty; the subsequently enumerated capacities, powers and liabilities are not intended to restrict the generality of this clause;
2. the capacity to contract, to sue and be sued in the name of the Commission;
3. freedom from liability for the members of the Commission for the acts and liabilities of the Commission and, conversely, a general responsibility of the Commission for the acts of itself, its employees and agents, in the same manner as if the Commission were a body corporate, incorporated under the laws of either of the countries;
4. the power to obtain the services of engineers, lawyers, agents and employees generally;
5. the power to make the necessary arrangements for Workmen's Compensation either directly or with the appropriate authorities or agents in either country, so as to insure to workmen and their families rights of compensation equivalent to those which they would ordinarily receive in the Province of Ontario in respect to the parts of the works within Canadian territory, or the equivalent works as referred to in Article III (b) of this Treaty, or in the State of New York in respect to the remaining works.

(f) The Commission shall be subject to the jurisdiction of the Federal Courts of the two countries, respectively, that is to say, in respect to all questions arising out of the part of the works within Canadian territory or the equivalent works, as referred to in Article III (b) of this Treaty, the Commission shall be subject to the jurisdiction of the Exchequer Court of Canada, and, in respect to the remaining works, to the jurisdiction of the Federal Courts of first instance in the United States; and there shall also be established rights of appeal, analogous to the appeals in similar matters from the respective courts to the appropriate tribunals in the respective countries: provided, however, that in respect of a claim made upon the Commission exceeding in amount the sum of fifty thousand dollars (\$50,000), either of the Governments, at any time after such claim has been tried and judgment entered in the appropriate court of first instance herein provided for, may cause the matter to be referred by way of appeal to an arbitral tribunal. Such reference shall be effected by notice from the Government invoking this proviso to the other Government and to the Court, given within ninety days of the entry of such judgment, and such notice shall give to the tribunal jurisdiction over the appeal, or cause any appeal already taken to be transferred to the tribunal. The tribunal shall

consist of three members, all of whom must hold, or have held, high judicial office. One shall be appointed by each Government, and the third shall be selected by the two members so appointed; or, in the event of failure to agree, by the Governments jointly. The tribunal so established shall then have, in respect to such claim, exclusive final jurisdiction and its findings shall be binding upon the Commission.

(g) In view of the need for co-ordination of the work undertaken by the Commission and the development of power in the respective countries, the Commission shall have authority:

1. to make contracts with any agency in either country, which may be authorized to develop power in the International Section, for the engineering services necessary for the designing and construction of the power works;
2. to defer such parts of the power works as need to be constructed in conjunction with the installation of power-house machinery and equipment, and to make contracts with any agency in either country, which may be authorized to develop power, for constructing such deferred parts of the power works.

(h) The remuneration, general expenses and all other expenses of the members of the Commission shall be regulated and paid by their respective Governments and all other expenses of the Commission shall be defrayed out of the funds provided under the terms of Article III of this Treaty.

(i) The Governments agree:

1. to permit the entry into their respective countries within the area immediately adjacent to the International Section, to be delimited by an exchange of notes by the Governments, of personnel employed by the Commission, and to exempt such personnel from their immigration laws and regulations within such area;
2. to exempt from customs duties, excise or sales taxes, or other imposts, all supplies and material purchased by the Commission in either country for its own use.

(j) The Commission shall continue until its duties under Article III of this Treaty have been completely performed. The Governments may, at any time, reduce its numbers, provided that there must remain an even number of members with the same number appointed by each Government. Upon completion, arrangements will be made for the termination of the Commission and the bringing to an end of its organization by agreement between the Governments.

CORRESPONDENCE

relating to

KENOGAMI RIVER (Long Lake) PROJECT

and

EXPORT OF ELECTRICAL POWER

(Supplement to publication tabled in the House of Commons,
February 28, 1938, entitled "Correspondence and Documents
relating to the St. Lawrence Deep Waterway Treaty 1932,
Niagara Convention 1929, and Ogoki River and
Kenogami River (Long Lake) Projects and
Export of Electrical Power.")



OTTAWA

J. O. PATENAUDE, L.S.O.

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

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No. 1

*From the Premier of Ontario,
To the Prime Minister of Canada.*

TORONTO, February 25, 1938.

MY DEAR PRIME MINISTER:

I have for acknowledgment your letter of February 22nd, with reference to the project known as the Long Lac Diversion.

At the outset, you take issue with my considered opinion that your letter of September 7, 1937, constituted a refusal to convey Ontario's request to the Government of the United States and that further you voiced your opinion that the United States would be unwilling to side-track the St. Lawrence Treaty for such a project. You state

"My letter to Mr. Nixon can bear no such interpretation."

May I therefore respectfully request that you reread your own letter of September 7th, with particular reference to the following, on page three, with reference to our request, you state

"The United States Administration would be unwilling to side-track the St. Lawrence Treaty for such an object. Even if negotiated, such a separate treaty would have less chance in the United States Senate than the incidental provisions to the same effect in the St. Lawrence Treaty, since practically it would be for Canada's benefit only so far as power is concerned. And while such a diversion into boundary waters would help both countries as to navigation, that aspect is difficult to separate from the St. Lawrence Treaty provisions regarding the Chicago diversion and the compensation works questions."

On page four I would call your attention also to the following statement of yours:

"The discussions with United States representatives then mentioned indicated that the Administration at Washington are definitely interested in developing the St. Lawrence-Great Lakes System for transportation and power; that they are more interested in a St. Lawrence (including transportation) treaty than in a Niagara treaty; and that it would be impossible to reach agreement with them on Niagara without agreeing on the St. Lawrence as well. Similarly, I feel, the whole tenor of the discussions would indicate their unwillingness to deal piece-meal with a particular item like this proposed diversion and the modification of the legal rule governing the apportionment of waters.

"I have tried here to review again some of the main considerations that appear to touch the project you have in mind. We are

not only doubtful of the chances of reaching an agreement with the United States on this particular item alone; we appreciate that an attempt to put it forward separately at the present stage might endanger or weaken our position as regards the other outstanding boundary water questions with which it has significant practical inter-relationships and which are important to both the Dominion and the Province."

In your recent communication you state:

"In conclusion you express the hope that the Canadian Government will reconsider the position and, on behalf of Ontario, will endeavour, in the international negotiations, 'to separate the general scheme of the St. Lawrence Waterways from the problem of diverting the waters above Niagara.' In this connection I have observed public statements intimating that our Government have been trying to impose a general scheme upon Ontario against her will.

"None of the correspondence or consultations with Ontario representatives affords any foundation for such suggestions."

May I respectfully enquire what you meant then when you said that it would be impossible to reach an agreement with the United States on Niagara scheme without agreeing on the St. Lawrence as well. May I at this moment quote a letter presented to me on October 14, 1937, by Mr. Nixon, signed by T. Stewart Lyon former editor of the *Toronto Globe* and Hydro Commissioner, who makes the following observations with regard to the letter referred to:

"I have read with keen interest but no surprise this letter from Mr. King to you regarding the Long Lac diversion.

"Mr. King in effect says: that he does not propose even to ask United States authorities for their provisional consent by letter to the diversion of the Long Lac water into Lake Superior; that the diversion can only be legally made by amendment to the Waterways Treaty, and in his opinion there is no likelihood that the United States Executive would be willing to deal with the matter in any other way than by treaty amendment.

"The balance of the letter, as I understand it, means neither more nor less than that Mr. Roosevelt will give us no additional rights on the Niagara, even for the use of water originating in Canada, unless Ontario gives consent to the immediate inauguration of the St. Lawrence canal work. Mr. King expresses no opinion on that matter himself, but I assume from the letter that if the Hydro Electric Power Commission of Ontario and your Government were prepared to provide the bulk of the money for the construction of the canal on the Ontario side of the boundary the Federal authorities would be quite willing to authorize the work and control the spending of the money.

"After the election I propose to place before your Government a proposal for the greater utilization of the Welland canal as a source of water supply for the Decew Falls development of this Commission, that the Federal authorities will have some difficulty in shelving. Meanwhile are we going to stop the Long Lac work, for which development your Government and ourselves are jointly responsible financially? That is a very practical issue. What shall we do if Mr. King, following up his letter, says we may not even put this water into Lake Superior without the consent of the United States?"

With reference to your statement that the letter under discussion was sent on September 7 and acknowledged on September 9, it would indicate that the acknowledgment came from my office. The letter in question was, as I have stated, addressed to Mr. Nixon, and was acknowledged by him and handed to me for the first time by Mr. Nixon on October 14, the first council meeting following the general election, along with the memorandum, a copy of which I include in this communication.

However, having straightened out this difference, I am pleased to note that you have, on January 27, 1938, forwarded to the Legation at Washington, the request for action contained in Mr. Nixon's letter of July 21, 1937.

Yours sincerely,

M. F. HEPBURN.

Right Honourable W. L. MACKENZIE KING, P.C.,
Prime Minister of Canada,
Ottawa, Ontario.

Enclosure to preceding letter of February 25, 1938, from the Premier of Ontario to the Prime Minister of Canada.

TORONTO, October 14, 1937.

Re: Long Lac Division

MY DEAR CHIEF:

For your information, I am enclosing copy of my letter to the Secretary of State, Ottawa, the Right Honourable W. L. Mackenzie King's reply and Mr. Stewart Lyon's comment on this reply.

Sincerely Yours,

H. C. NIXON.

Hon. M. F. HEPBURN,
Premier,
Parliament Buildings.

No. 2

*From the Prime Minister of Canada,
To the Premier of Ontario.*

OTTAWA, March 1, 1938.

Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Ontario.

MY DEAR PREMIER:

I received this morning your letter dated February the 25th, regarding the Long Lake diversion project and allied questions.

Your letter does not appear to raise any new points, and I do not think it necessary to go over the ground already covered in our correspondence. The quotations you give from my previous letter clearly indicate that it was the views of the United States Government, not the Government of Canada, that were being brought to the attention of the Ontario authorities, as the situation required.

May I add to the list of quotations the following from my letter of February the 22nd, from which you quote:

"What has been done has been to bring to the attention of the Ontario authorities the position of the United States Government from time to time as it has become known to us; and, in view of the practical importance of all these matters to Ontario, we have invited discussions with your representatives. This we were naturally bound to do, in order to find out what it might be practicable to say in reply."

* * * * *

"On each occasion, so far from attempting to impose anything, I could only, as I did, ask your views in order that I might be in a practical position to make some communication to the United States representative. Upon receiving your replies I naturally made the situation known to them.

"I had assumed you realized that, in situations involving several interests, practical solutions can only be reached by agreement of all interests, and that, in making known to you from time to time the position of one of the essential parties in interest, I was only following a simple and necessary procedure familiar to all negotiators when confronted with differing views."

Mr. Lyon's letter from which you quote does not give my position but an interpretation of it to which I had to take exception.

I note your reference to the action taken by our Government in bringing the request to the attention of the United States. I shall advise you as soon as a reply is received.

Yours sincerely,

W. L. MACKENZIE KING.

No. 3

*From the Secretary of State of the United States, Washington,
To the Canadian Minister to the United States, Washington.*

March 17, 1938.

SIR,—

I have the honour hereby to convey to you the views and decision of the United States Government in connection with the request made in your note No. 17 of January 27, 1938.

In the note in question you stated that the Canadian Government has under consideration and is prepared to approve an application, pursuant to the Navigable Waters Protection Act, from the Hydro-Electric Power Commission of Ontario, for which the Government of the province of Ontario asks favourable consideration, and which seeks the approval of certain works designed to provide for the diversion of water from the Kenogami River, a tributary of the Albany River, via Long Lake, all in the province of Ontario, into Lake Superior.

You went on to say that the project, if carried out, would entail certain material advantages, which the United States would share in common with Canada, namely, an improvement in the conditions affecting navigation throughout the Great Lakes-Saint Lawrence system, and some reduction in the expenditures on the compensating works which have to be operated at certain points in the system. With regard to the conditions affecting navigation, it is perhaps sufficient at this time to observe that any proposal which might affect the existing levels of boundary waters would appear to fall within the scope of Article 3 of the Boundary Waters Treaty of 1909, which reads in part as follows:

“It is agreed that, in addition to the uses, obstructions, and diversions heretofore permitted or hereafter provided for by special agreement between the Parties hereto, no further or other uses or obstructions or diversions, whether temporary or permanent, of boundary waters on either side of the line, affecting the natural level or flow of boundary waters on the other side of the line, shall be made except by authority of the United States or the Dominion of Canada within their respective jurisdictions and with the approval, as hereinafter provided, of a joint commission, to be known as the International Joint Commission.”

In conclusion, you pointed out that the diversion, averaging approximately 1,200 cubic feet per second, would also make available more water along the Great Lakes-Saint Lawrence system for the production of electrical power. You inquired whether the Government of the United States would be disposed to enter into an agreement to the following effect: That, notwithstanding the provisions of Articles 5 and 8 of the Boundary Waters Treaty of 1909, in the event of the proposed diversion being made into Lake Superior from the Kenogami

River, via Long Lake, the exclusive rights to the use of waters equivalent in quantity to any waters so diverted shall be vested in Canada, and the quantity of water so diverted shall be at all times available to Canada for use for power below the point of diversion so long as it constitutes a part of boundary waters.

As both governments are fully aware, the existing contractual rights of our two countries in respect to the uses of boundary waters are embodied in the Boundary Waters Treaty of 1909. The proposal now advanced by your Government contemplates a change in that Treaty which, in connection with possible additional diversions of water for power purposes on the Canadian side of the Niagara River, would have the effect of upsetting the division of water for power purposes which was specifically provided for in Article 5 of the Boundary Waters Treaty and which was considered equitable at that time. It is noted that although this Government is invited to acquiesce in the proposed change, which would be to the sole benefit of the province of Ontario, there is no suggestion that there be considered at the same time any of the related questions which are of outstanding interest to the United States.

This Government does not contend that the division of water for power purposes agreed upon in 1909 is perfect, or that it should necessarily be perpetuated. Indeed, this Government is convinced that Article 5 of the Boundary Waters Treaty is antiquated and in urgent need of revision, not only to provide for the construction of adequate works to ensure the preservation of the scenic beauties of Niagara Falls, but to eliminate, through much more efficient utilization of existing power resources, the waste which is inevitable with the present power plant facilities. The adoption of progressive steps in the Niagara River looking towards the equalization of diversion between the two countries and the most efficient use of the waters so diverted for power purposes, would in the opinion of this Government result in mutual benefits considerably larger than those now enjoyed by either country.

It is believed that no change should be made in Article 5 of the Boundary Waters Treaty without due consideration being given to the new conditions which have arisen since 1909. Without entering into a detailed discussion of those conditions, I will merely draw your attention to the following factors:—

A. The practical obsolescence of the power plants which existed and were taken into consideration at the time the 1909 treaty was made.

B. The construction by Ontario of the Queenston station at the foot of the lower Niagara Rapids, no consideration having been given in 1909 to the possibility of diversion around the rapids.

C. The Supreme Court decree limiting the diversion in the Great Lakes Basin at Chicago to 1,500 cubic feet per second by

December 31, 1938, thereby making 8,500 cubic feet per second available at Niagara which were not considered available in 1909.

D. The present utilization of Niagara waters for peak purposes over and above the daily average diversions, no consideration having been given in 1909 to agreement on the limits of this practice.

E. Finally, as was mentioned before, the urgent necessity for works to preserve the scenic beauties of Niagara Falls.

As indicated in your note, it is true that in the Great Lakes-Saint Lawrence Deep Waterway Treaty, which was signed on July 18, 1932, but which failed to receive the advice and consent of the United States Senate to its ratification, the principle was accepted that waters diverted from a national watershed into the international waterways should be regarded for power uses as exclusively national waters of the country wherein the watershed lay. What is not clear from your note, however, is the fact that this provision, which in reality could only benefit Canada, was a part of a comprehensive agreement which involved a large number of other factors. A request that this Government accede to the adoption of this principle in a separate agreement without relation to those other factors, many of which are of outstanding importance to the United States, does not seem justifiable.

May I say, in conclusion, that this Government realizes the needs of Canada, and particularly the needs of the province of Ontario, with respect to the production of additional hydro-electric power, and sympathizes with the very natural desire of the Canadian Government to provide for the future. This Government has every reason to hope that the Canadian authorities on their part will appreciate and sympathize with the needs of the American people on their side of the border.

It is only because this Government desires to see the mutual needs of both countries fully provided for, and is convinced that this can best be done through a jointly planned development of their extraordinary natural resources in the Niagara and Saint Lawrence Rivers, that it finds it necessary to convey an adverse decision on the specific request set forth in your note.

As the Canadian Government is already aware, this Government is ready and eager to enter into and push to a speedy conclusion negotiations looking towards a mutually satisfactory agreement dealing with the varied and important problems of the Great Lakes-Saint Lawrence River Basin.

Accept, Sir, the renewed assurances of my highest consideration.

CORDELL HULL.

The Honourable
SIR HERBERT MARLER, P.C., K.C.M.G.,
Minister of Canada.

No. 4

*From the United States Department of State, Washington,
To the Canadian Minister to the United States, Washington.*

NOTE.—The Memorandum from the United States Department of State set forth below, dated March 17, 1938, stating the views of the Government of the United States on the importation of hydro-electric power from Canada and allied questions, was handed to the Canadian Minister to the United States on March 18th.

MEMORANDUM

March 17, 1938.

DEPARTMENT OF STATE,
WASHINGTON.

The Government of the United States is aware of the question now before the Parliament of Canada involving the exportation of hydro-electric power to the United States. Although it is realized that the bill now before the House of Commons pertains not to a specific request for permission to export, but to the general authority over such exports, it is desirable that the President's authority to prohibit, or to establish conditions governing, the importation of power into the United States be clearly understood.

The President's authority with respect to importation of electricity from foreign countries including Canada was set forth in an opinion by former Attorney-General J. C. McReynolds (now Mr. Justice McReynolds of the Supreme Court of the United States) rendered to President Wilson on August 14, 1913, reading in part as follows:

"In my opinion the lapse of the Burton Act (34 Stat. 626) which contained the only direct legislation regarding the transmission of electricity from Canada, has left you free to control the matter under your plenary power to prevent any physical connection (not authorized by Congress) between any foreign country and the United States.....

"In the absence of legislation by Congress you may not only prohibit the importation of electrical power to this country from Canada but may also grant permission therefor subject to such conditions as to you may seem good." (30 Ops. Atty. Gen. 217).

No legislation dealing with this matter has been enacted by Congress and licences for the construction of power lines crossing international boundary lines of the United States have been issued by Presidents under this authority since the above-mentioned opinion was rendered.

It may also be appropriate at this time to explain the manner in which the Government of the United States views the responsibility which devolves upon it as a result of the President's authority to prohibit or control imports of power.

It is well known that successive governments in Canada have been traditionally reluctant to permit the long term exportation of power to the United States. The principal reasons underlying this policy were concisely stated in a letter, recently made public, from the Premier of Ontario to the Minister of Trade and Commerce at Ottawa. The objections, as therein stated, were as follows:

- "1. That the exportation of power results in the establishment in the United States of dependent communities or industries.
- "2. That irrespective of the terms of the agreement under which export delivery is made, the commitments become irrevocable; that is, the deliveries cannot be suspended or terminated at any later date without giving rise to international complications and being regarded as an unfriendly act.
- "3. That the export of power enables industries, which otherwise would establish themselves or branches thereof in Canada, to handle their Canadian business from factories located in the United States."

It must be clear to all who have given thought to the problem that those reasons which have in the past made the exportation of power undesirable from the point of view of Canada have made the importation of power undesirable from the point of view of the United States. In the case of the latter, a broad policy of national defence is also involved. On this aspect of the question, it is perhaps sufficient merely to say that many of the industries most necessary to the life of a nation in times of national emergency require very large and uninterrupted supplies of power. The fact that the Government of the United States anticipates no such emergency does not relieve it of the responsibility of taking the possibility into account.

It is natural that Canada should desire to enjoy the full advantage of its own splendid resources of cheap hydro-electric energy, when required by the growth of its home market or the development of its industries. It is also natural that the Provinces of Ontario and Quebec should wish to find a profitable outlet for whatever power may be available to them in excess of actual requirements and, to this end, should desire to export this excess power to the United States on a temporary basis, subject to withdrawal to meet future demands at home. It is certain, however, that neither country would wish to stand in the way of the other's utilization of its share of their common resources when such use is desirable or necessary to its economic progress.

While sympathizing with the desires of Ontario and Quebec, the Government of the United States considers that its primary obligation is to view the problem in terms of protection for the general power market in the United States and for those American industries which might become dependent upon imported supplies of power. In this

connection, it may be pointed out that if the Northeastern power market in the United States were to become dependent for any considerable portion of its power supply upon withdrawable imports, it would be faced with the constant danger of having to revert hastily to additional steam plant construction for base load power.

In the circumstances, the Government of the United States believes that it would be failing to discharge its proper obligations if it were to give its consent to the importation of hydro-electric power, even on a temporary basis, without simultaneously providing for the development of an alternative and equally economical domestic supply to be available when the imported power was withdrawn.

The Government of the United States is therefore convinced that the question of power interchange across the border cannot properly be regarded as a separate question, but should be dealt with as part of a general settlement of the problems of the entire Great Lakes-Saint Lawrence Basin, whereby both countries would secure, as their requirements necessitated it, the full utilization of this magnificent resource which they jointly share.

A similar conviction was expressed in the Secretary of State's note of March 17, 1938 to the Canadian Minister in connection with the latter's suggestion that the two governments negotiate a separate agreement dealing with a proposed plan to divert water from the Kenogami River in Ontario, via Long Lake, into Lake Superior.

It will be recalled that the suggestion for a general settlement of the problem arising in the Great Lakes-Saint Lawrence Basin was made to the Canadian Government as long ago as February 1936. The suggestion was repeated in the Secretary of State's note of March 17, 1938 referred to above.

A general settlement along the lines at present envisaged by the United States Government might well provide for exports of power from Canada to the United States on a withdrawable basis extending over a considerable number of years, and at the same time to provide in an orderly program for the development of the vast undeveloped resources of cheap hydro-electric power in the St. Lawrence and Niagara Rivers which, in the case of the United States, would afford a substitute for the power exported by Canada when such exports are withdrawn.

In addition to the completion of a waterway, the Canadian share of which has already been so largely accomplished, the settlement would provide a rational plan for the future utilization of the Niagara River with full protection for the scenic spectacle. Technical advisers suggest that a planned program will not only afford greater protection for the scenic spectacle than hitherto envisaged, but will also assure far larger recoveries of power from the available waters than has hitherto been contemplated.

Such a settlement would further assure the maintenance of lake levels and the navigable depth of the Montreal harbour and ship channel;

it could afford the Province of Ontario the opportunity which it is seeking to divert waters from the Albany River Basin into the Great Lakes Basin and to use the equivalent waters for power purposes, notwithstanding the limitations of the 1909 Boundary Waters Treaty. It could make possible an international arrangement for the interchange of power which would undoubtedly prove of great economic advantage to the power systems of both countries.

In terms of future supplies of power in both countries the early initiation of a program for the orderly development of this great natural resource would seem of the utmost importance. Many years have elapsed since consideration was first given to the undertaking. In the meantime, both New York and Ontario, with the vast potentialities of the Niagara and St. Lawrence Rivers at their very borders, have been forced to meet the demands of growing power markets from other and less economical sources.

The Government of the United States is aware that the Province of Ontario has contracts for power supply adequate to its needs until from 1943 to 1945, but it is clear that thereafter additional supplies must be obtained on a basis which will insure the ability to meet the market requirements of the Province over another extended period. Requirements for hydro-electric power must be anticipated many years in advance because of the time required for development, and it is well known that power from the international rapids section of the St. Lawrence River could not be made available until from five to eight years after agreement is reached.

A review of official engineering studies suggests that, under a general agreement providing for development at Niagara and in the International Section of the St. Lawrence River, power will be available on a basis which will not only assure cities, villages and rural areas a power supply at a lower cost than could be obtained from any alternative source, but will also provide for that modern industrial development which occurs in proximity to supplies of cheap hydro-electric power.

Similar economic surveys have portrayed graphically what such developments mean in terms of new capital investment, increased employment and wages, population growth and general increase in wealth.

In this connection, the Government of the United States considers it of great importance to the general welfare that all regions be assured equality of opportunity in the use of their natural resources. Any other policy tends to favour industrial development in one region at the expense of the other and so disturbs the balance upon which general prosperity and growth depend. From this point of view it feels that the Great Lakes-St. Lawrence basin, because of the vast and varied areas in both countries which its planned development can serve, affords an unequalled basis for a joint undertaking which will prove of inestimable value to both peoples.

If the Niagara and St. Lawrence rivers had been situated entirely within the boundaries of either country, there can be little doubt that full utilization of the power resources in those regions would have been enjoyed long since. This being the case, the mere fact that the waters in question form a part of the international boundary is serving to deprive the people of both countries of the full use of the natural advantages which they share in common.

An effort has been made in the foregoing paragraphs to outline roughly some of the accomplishments which might be expected to result from a comprehensive agreement between Canada and the United States dealing with the Great Lakes-St. Lawrence Basin. The list is not meant to be exhaustive and both Governments would naturally be free in the course of negotiations to bring up for discussion any related problems which might properly be dealt with. The United States Government is prepared to enter into discussions of the problems involved at the earliest convenience of the Canadian Government.

No. 5

*From the Prime Minister of Canada,
To the Premier of Ontario.*

OTTAWA, March 21, 1938.

MY DEAR PREMIER:—

The reply of the United States Government has just been received to our note to them of January 27th regarding the Kenogami River diversion project, of which I sent you a copy with my letter of February 22nd. I am enclosing a copy of this reply, which takes the form of a note from the Secretary of State, dated March 17, 1938.

On March 18th the United States Department of State delivered this note and at the same time handed to the Canadian Minister in Washington a memorandum, also dated March 17th, stating the views of the Government of the United States on the importation of hydro-electric power from Canada and allied questions. I am enclosing a copy of this memorandum also.

Both documents will be tabled in the House of Commons to-night.

Yours sincerely,

W. L. MACKENZIE KING.

The Honourable MITCHELL F. HEPBURN, M.L.A.,
Premier of Ontario,
Toronto, Ont.

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